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SAN FRANCISCO PORT COMMISSION

July 16, 1997

Volume I

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PORT OF SAN FRANCISCO

NOTICE OF CANCELLATION

THE REGULAR PORT COMMISSION MEETING SCHEDULED FOR
TUESDAY, JULY 8, 1997 AT 4:00 P.M.
IS HEREBY CANCELLED

♦ • ♦ • ♦ • ♦

A SPECIAL PORT COMMISSION MEETING
IS SCHEDULED FOR

WEDNESDAY, JULY 16, 1997
An executive session will be held at 9:00 a.m.
The regular meeting will start at 10:00 a.m.

in the Port Commission Room
Suite 3100, Ferry Building
San Francisco, CA 94111
(415) 274-0406

DISABILITY ACCESS

The Port Commission office is located on the third floor of the Ferry Building, Suite 3100. The Port office is wheelchair accessible. Accessible seating for persons with disabilities (including those using wheelchairs) will be available. The closest accessible BART station is Embarcadero Station located at Market and Steuart Streets. The closest accessible MUNI Metro station is Embarcadero station located at Market and Spear Streets. Accessible MUNI lines serving the Ferry Building are the 9, 31, 32 and 71. For more information about MUNI accessible services, call 923-6142.

There is accessible parking at the Ferry Building and at the public lot in the Embarcadero median in front of the Ferry Building. Assistive listening devices are available for use in the Port Commission Meeting.

The following services are available on request 72 hours prior to the meeting. Please contact Kevin Jensen at (415) 274-0555. Late requests will be honored if possible.

- American Sign Language Interpreters
- A Sound Enhancement System
- Large Print of the Agenda
- The use of a reader during the meeting
- Minutes of the Meeting in Alternative Formats

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City accommodate these individuals.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

SAN FRANCISCO
PORT COMMISSION

SPECIAL MEETING
9:00 A.M., WEDNESDAY, JULY 16, 1997
FERRY BUILDING, SUITE 3100
SAN FRANCISCO, CALIFORNIA

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AGENDA

1. **ROLL CALL**

2. **NEW BUSINESS / PUBLIC COMMENT**

Public comment is permitted on any matter within Port jurisdiction, and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. Please fill out a speaker card and hand it to the Commission Secretary. If you have any questions regarding the agenda, please contact the Commission Secretary at 274-0406.

3. **EXECUTIVE SESSION**

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - ***This session is closed to any non-City/Port representative.****

1) Property: Port property located at Berry Street and Second Street (China Basin).
Person Negotiating: Port representative: Douglas F. Wong, Executive Director
Person Negotiating: City representative: Rudy Nothenberg, Special Assistant to the Mayor
*San Francisco Giants Representative: Larry Baer, Executive Vice President

Under Negotiation: ____ Price ____ Terms of Payment __✓__ Both
An executive session has been calendared to discuss real property negotiations between the Port and San Francisco Giants, regarding the proposed ballpark. This is specifically authorized under California Government Code Section 54956.8.

B. Vote in open session on whether to disclose Executive Session discussions (S.F. Admin. Code Sec. 67.14)

4. **ADJOURNMENT**

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SAN FRANCISCO
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SPECIAL MEETING
10:00 A.M., WEDNESDAY, JULY 16, 1997
FERRY BUILDING, SUITE 3100
SAN FRANCISCO, CALIFORNIA

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AGENDA

1. **ROLL CALL**

2. **EXECUTIVE**

   A. Approval of transaction documents for the development of a new ballpark for the San Francisco Giants at China Basin, including:

1)	CEQA findings;	(Resolution No. 97-53)
2)	Burton Act findings;	(Resolution No. 97-54)
3)	Lease Disposition and Development Agreement;	(Resolution No. 97-55)
4)	Ground Lease;	(Resolution No. 97-56)
5)	Non-Relocation Agreement & Guaranty; and	(Resolution No. 97-57)
6)	Purchase and Sale Agreement for a parcel owned by Caltrans and authorization to seek Board of Supervisors approval of a Supplemental Appropriation.	(Resolution No. 97-58)

   B. Confirmation and Approval of Amendments to the City's General Plan and to the Rincon Point-South Beach Redevelopment Plan (Resolution No. 97-59)

3. **FACILITIES AND OPERATIONS**

   A. Authorize staff to approve vacating portions of Berry Street and Second Street to accommodate development of the proposed ballpark at China Basin. (Resolution No. 97-60)

NOTE: If you challenge in court any of the proposed actions in Sections 2 and 3 above, you may be limited to raising only those issues you or someone else raised at this public hearing, or in written correspondence delivered to the Port Commission at, or prior to, this public hearing.

4. PLANNING AND DEVELOPMENT

A. Authorize staff to issue an RFP to select an operator to finance, build and operate a ferry landing facility adjacent to the proposed ballpark at China Basin. (Resolution No. 97-61)

5. NEW BUSINESS / PUBLIC COMMENT

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6. ADJOURNMENT

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PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

MEMORANDUM

July 10, 1997

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Denise McCarthy, Vice President
Hon. Frankie Lee
Hon. James Herman

FROM: Douglas F. Wong Alex Lee for DW
Executive Director

SUBJECT: Approval of transaction documents for the development of a new ballpark for the San Francisco Giants at China Basin

DIRECTOR'S RECOMMENDATION: APPROVE CEQA FINDINGS, INCLUDING MITIGATION MEASURES AND A MITIGATION MONITORING PROGRAM; AND APPROVE BURTON ACT FINDINGS; AND APPROVE DDA, LEASE, NON-RELOCATION AGREEMENT AND GUARANTY, AND CALTRANS PARCEL PURCHASE AGREEMENT.

I. INTRODUCTION

On March 26, 1996, the voters of the City and County of San Francisco approved Proposition B, which amended the City's zoning laws to allow a new ballpark for the San Francisco Giants to be built at China Basin. Consistent with the policies and purposes of Proposition B, the proposed transaction for the development of a new ballpark includes four principal agreements between the Port Commission (the "Port"), San Francisco Baseball Associates L.P., owner of the Giants franchise (the "Team Owner"), and the China Basin Ballpark Company LLC, the ballpark development entity established by the Team Owner ("CBBC"). These agreements are (1) a Lease Disposition and Development Agreement ("DDA") between the Port and CBBC; (2) a Ground Lease ("Lease") between the Port and CBBC; (3) a Non-Relocation Agreement and Guaranty between the Port and the Team Owner; and (4) a Purchase and Sale Agreement between the Port and State of California, Department of Transportation ("Caltrans").

THIS PRINT COVERS CALENDAR ITEM NO. 2A

II. DESCRIPTION OF THE PROJECT

The site for the new ballpark consists of approximately 12.5 acres bounded generally by King Street, Second Street, the China Basin Channel and Third Street. (Attachment A). The ballpark site consists of 3 major tracts: (1) Pier 46B, which has housed the Port's maintenance facility and a number of private tenants; (2) portions of Berry Street and Second Street; and (3) an approximately 3.5 acre parcel at King and Third Streets, which is owned by Caltrans and is leased on a month-to-month basis to private tenants. The Port Commission has jurisdiction and control of all of the site except the Caltrans parcel.

The property within the Port's jurisdiction is subject to the Tidelands Trust and Burton Act. The Caltrans property does not appear to be presently encumbered by the tidelands trust. Under special State legislation adopted in 1984, the Port has the right to purchase the Caltrans property at fair market value. Under the terms of that legislation, the property will become subject to the Burton Act trust upon acquisition by the Port.

Under the proposed transaction, the Port will lease the site to CBBC for $1,200,000 per year for the development of an open-air, waterfront ballpark with up to 42,000 seats. CBBC may also develop associated commercial, retail and entertainment uses in the so-called "Pavilion Building," which will be located adjacent to the ballpark along Third Street. The combined floor area of the ballpark, including the approximately 136,000 square foot Pavilion Building, is about one million square feet.

The project will include a public access walkway or "PortWalk" along China Basin Channel that will connect with and effectively extend the Embarcadero Promenade (Herb Caen Way). Pedestrians walking along the PortWalk will be able to directly view the playing field from the pedestrian arcade along the right field wall by looking through a series of archways. Public plazas will adjoin the major pedestrian entrances at Third and King Streets, Lefty O'Doul Bridge and behind center field. In addition to public access along the walkway and plazas, the public will be afforded the opportunity for views of the Bay from the cafe and concession area on the second level of the ballpark.

An interagency design review committee has reviewed preliminary designs and conceptual drawings of the project. Participants include the Port, the Redevelopment Agency, the Planning Department and BCDC. This process has resulted in positive changes to the preliminary design of the site, the ballpark structure and the public access areas. Some design issues are still under discussion, including the final design of the PortWalk along China Basin Channel. The DDA provides for the Port's continued design review and approval of schematic and preliminary construction drawings.

III. PUBLIC PARTICIPATION

The public has substantively participated in the design and evaluation of the ballpark project. The Rincon Point-South Beach Citizens Advisory Committee ("CAC") has served as the primary advisory group for community input regarding land use, design and development of the ballpark. For purposes of considering the ballpark, the membership of the CAC was enlarged to include representatives of the house boaters on China Basin Channel and residents of South Park and Potrero Hill. The CAC's advisory efforts with the Giants began months prior to the ballot initiative approving the ballpark. Over the past 18 months, approximately 27 meetings were held by the CAC to consider numerous matters relating to the ballpark and its impact on South Beach and adjoining neighborhoods, including subcommittee meetings at which design and transportation matters were specifically reviewed. Two public forums were held where City staff, including the Port, made presentations and responded to questions.

IV. PUBLIC BENEFITS

The lease and development of the China Basin site for the ballpark will provide a number of public benefits. Among those benefits, the proposed project:

- Provides for an agreement by the Giants to play baseball in San Francisco at least until December 2022, which corresponds to 23 baseball seasons at the new ballpark if the park opens in April 2000 as scheduled.

- Provides construction and permanent job opportunities for San Franciscans. CBBC will agree to implement an affirmative action program during both construction and operation of the ballpark, including welfare-to-work and youth employment training programs. CBBC estimates that the project will generate over 3,500 construction trade jobs and result in the retention in San Francisco of thousands of permanent jobs in the ballpark and in related businesses.

- Enhances public enjoyment of and access to the San Francisco Bay and the Port's property by bringing many people of all ages to a place of public assembly and recreation adjacent to the shoreline. CBBC will agree to construct public access improvements in connection with the development of the ballpark, including an extension of the PortWalk. The ballpark seating area and public access improvements will be oriented to views of the Bay, the Channel, the Bay Bridge and the rest of the waterfront.

- Provides an attraction for many visitors to come to the waterfront and promotes opportunities for restaurants, entertainment and Bay-oriented commercial

recreation activities in the surrounding area before and after baseball games and other permitted events.

- Furthers the implementation of the Port's Waterfront Land Use Plan and other land use plans which are applicable to the site, including the City's General Plan, Special Area Plan, Planning Code and the Rincon Point-South Beach Redevelopment Plan.

- Provides the Port fair market rent for the ballpark site.

V. CEQA

On June 26, 1997, the City Planning Commission, by Motion No. 14398, and the San Francisco Redevelopment Agency Commission, by Resolution No. 97-97, certified the Final Environmental Impact Report for the ballpark project ("FEIR") as accurate, adequate and objective and in compliance with the California Environmental Quality Act ("CEQA") and the CEQA Guidelines.

Before the Port Commission can approve the transaction, it must consider the certified final environmental impact report ("EIR") for the ballpark project and adopt findings required under CEQA. The proposed CEQA findings are attached to Resolution 97-53. The CEQA findings include a number of mitigation measures for the ballpark project. In addition, there are a number of improvement measures for the project, which the project sponsor and City staff have agreed to as the result of requests by the CAC and other community members. The mitigation and improvement measures which are related to the initial construction of the ballpark and which apply to the project sponsor are attached to the DDA. They will constitute contractual obligations of CBBC under that agreement. Mitigation and improvement measures related to the operation of the ballpark project and which apply to the project sponsor will be attached as an exhibit to the Lease. Similarly, compliance with those measures will constitute contractual obligations of CBBC under the Lease.

The ballpark project has also been reviewed for consistency with the recently adopted Waterfront Land Use Plan ("WLUP") and is found to be consistent with the Port's objectives and policies contained therein. The WLUP specifically permits a ballpark to be developed at China Basin, provided the Port receives a fair market return for the property and the project promotes public access. As noted above, the proposed transaction provides a number of public benefits including those set forth in the WLUP. With the approval of the WLUP, the Port Commission adopted a number of mitigation measures to be applied to Port projects, as applicable, to avoid significant environmental effects. The applicable mitigation measures have been incorporated into the DDA and/or the Lease or will be addressed in the Port's building permit process as appropriate.

VI. BURTON ACT

Given that the nature of the improvements and uses contemplated for the site under the transaction will expand and enhance public enjoyment and access to the Bay, as described above, the project's consistency with the WLUP, and the other public benefits to be derived from the project, staff recommends the Commission adopt Resolution No. 97-54 finding that the transaction is in accordance with the terms of the Burton Act.

VII. THE TRANSACTION

To approve the project, there are four primary resolutions before the Port Commission for consideration. These resolutions would approve and authorize: (1) the DDA (Resolution No. 97-55); (2) the Lease (Resolution No. 97-56); (3) the Non-Relocation Agreement and Guaranty (Resolution No. 97-57) and; (4) the Caltrans Parcel Purchase Agreement (Resolution No. 97-58). A detailed summary of the transaction is attached. (Attachment B)

The basic financial terms of the proposed transaction are generally consistent with the terms previously presented to the Port Commission at a public hearing on December 20, 1996. The proposed documents contained a number of refinements of the principles in the Term Sheet (a summary of those refinements is attached) and a number of additional provisions. The proposed acquisition of the Caltrans parcel is consistent with the Mayor's January 31, 1997 letter describing that transaction (see attached copy), as evidenced in the signed Term Sheet. The Executive Director believes that the transaction reflected in the documents is a sound business transaction for the Port and the Port is compensated at a fair market value.

It should be noted that as of the time this report is being submitted, the Port and CBBC are continuing to negotiate a few points relating to the documents. This staff report and recommendation is based on the expectation that these issues will be resolved to the mutual satisfaction of the Port and CBBC prior to the Port Commission hearing. If any of these issues are not resolved, Port staff will present specific recommendations, as appropriate, to the Port Commission at the time of the hearing. The issues under discussion are:

- Ongoing discussions between the Giants and representatives of the bargaining unit for the food service employees at 3Com Park regarding rehiring of existing Giants employees for baseball games at the new ballpark and provisions for opportunities for union labor representation;
- The specific MBE/WBE subcontracting participation goals to be included in the Giants' voluntary Diversity Program effective during construction of the ballpark;
- The amount of general liability insurance; and

- Closures of the PortWalk at night for purposes of providing security to the public and the facility.

On March 11, 1997, the Port Commission adopted Resolution No. 97-23, by which the Port Commission endorsed the terms of the Caltrans Term Sheet and authorized the Executive Director to pay the required $100,000 non-refundable deposit for the acquisition of the Caltrans parcel. The resolution for the approval of the Caltrans agreement will also authorize the Executive Director to seek an appropriations ordinance for the cost of acquiring the Caltrans property. The funds will be appropriated from a previously approved bank loan to the Port.

As an essential inducement for the Port to lease the site directly to CBBC and for the City to approve the overall ballpark transactions, including the tax issuance of tax allocation bonds to finance certain ballpark-related infrastructure, the Team Owner, has agreed to enter into (i) a Non-Relocation Agreement, whereby the Team Owner agrees to cause the Team to play its Baseball Home Games at the ballpark from completion of the ballpark through the end of the Initial Term of this Lease, subject to the Baseball Sublease and (ii) a Guaranty under which the Team Owner agrees to guaranty certain obligations of CBBC to the Port and the Redevelopment Agency if the Team Owner defaults under the Non-Relocation Agreement.

VIII. OWNER PARTICIPATION AGREEMENT

As a condition to closing of the Lease under the DDA, the Redevelopment Agency and CBBC must enter into the an Owner Participation Agreement ("OPA"). Under the OPA, the Redevelopment Agency will use its best efforts to issue tax allocation bonds in an amount sufficient to generate up to $15 million in net proceeds to finance development of specified infrastructure improvements that will support the Ballpark, including the Waterfront Promenade and other public improvements. The OPA will set forth the terms and conditions for the use of tax increment financing, which must be in place before the closing of the Lease in order for CBBC to obtain its construction financing from the ballpark lenders. The OPA will specify the permitted uses of the tax increment, which will be primarily to fund public infrastructure improvements. A copy of the OPA will be attached to the DDA.

IX. APPROVAL SCHEDULE

The Board of Supervisors will also be asked to approve the transaction. (Attachment C)

Prepared by: Douglas F. Wong

Attachments:

- Site Plan
- Summary of the Transaction
  (including summary of the Refinements and Mayor's letters)
- Approval Schedule

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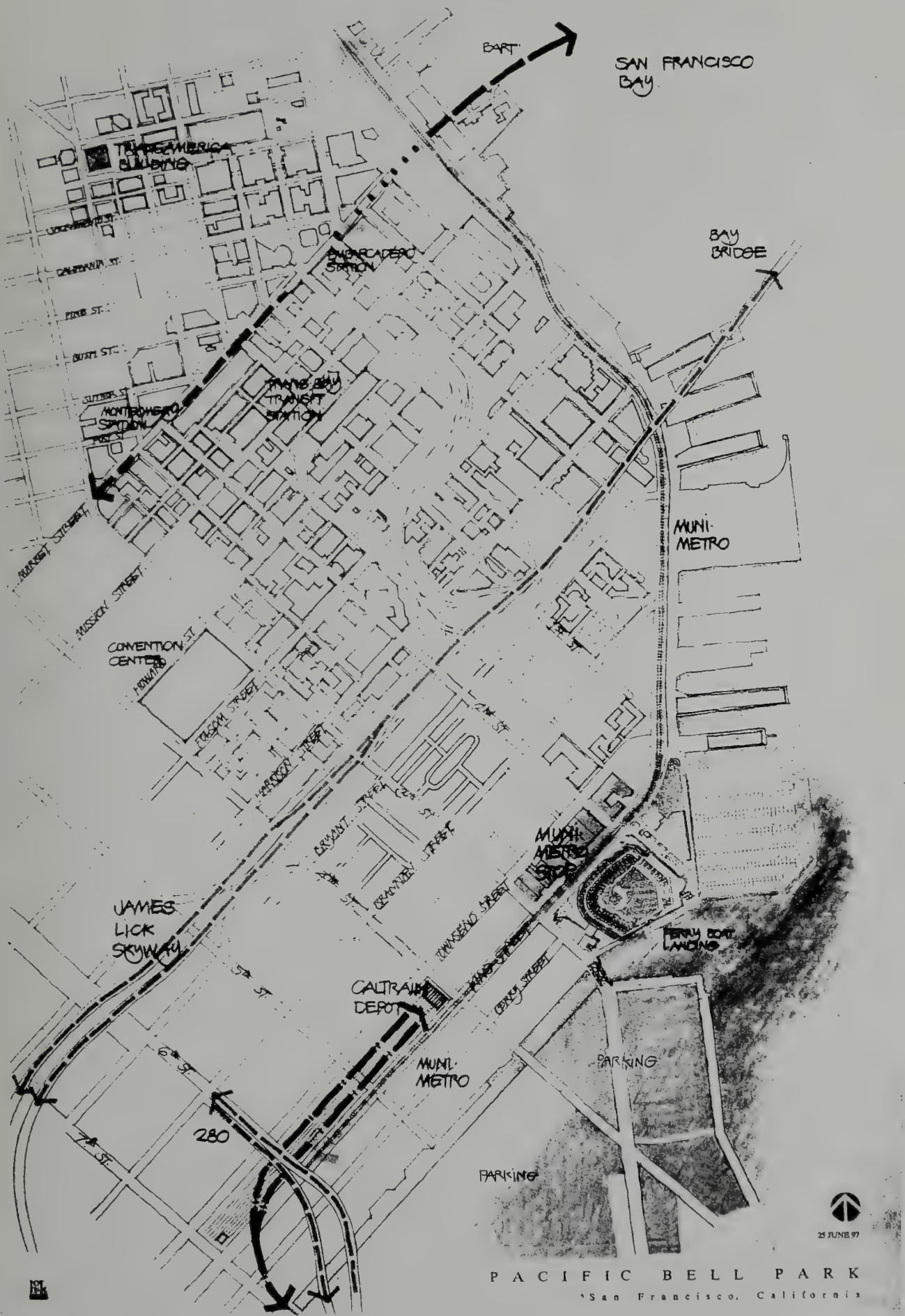
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HOWARD
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SUMMARY OF THE TRANSACTION
FOR THE BALLPARK PROJECT AT CHINA BASIN

On March 26, 1996, the voters of the City approved Proposition B, which amended the City's zoning laws to allow a new ballpark for the San Francisco Giants to be built at China Basin. The site for the new ballpark is approximately 12.5 acres in land area and is bounded generally by King Street, Second Street, the China Basin Channel and Third Street. The proposed transaction would provide the legal framework to implement the policies and purposes of Proposition B. The transaction involves agreements among the City, through its Port Commission, San Francisco Baseball Associates L.P., owner of the Giants franchise (the "Team Owner"), the China Basin Ballpark Company LLC ("CBBC"), an entity established by the Giants to develop the ballpark, and the Redevelopment Agency of the City and County of San Francisco.

There are five principal transaction documents which will be considered in connection with the ballpark project and are required for the transaction to proceed. Those are: (1) a Lease Disposition and Development Agreement ("DDA"); (2) a Ground Lease; (3) a Non-Relocation Agreement and related Guaranty; (4) a Purchase and Sale Agreement for the Caltrans-owned parcel located within the ballpark site; and (5) an Owner Participation Agreement ("OPA"). The first four documents will be considered at public hearings by the Port Commission and the Board of Supervisors. The OPA will be considered at a public hearing by the Redevelopment Agency Commission.

The basic financial terms of the proposed transaction are generally consistent with the Term Sheet which the Mayor, CBBC and the Team Owner signed in December 1996 (see attached copy of the Term Sheet and accompanying letter dated December 16, 1996 from the Mayor to the Board of Supervisors). The proposed documents contain a number of refinements of the principles in the Term Sheet (a summary of those refinements is attached) and a considerable measure of additional provisions.

The configuration of the proposed transaction may be summarized as follows:

- The Leasehold Disposition and Development Agreement (DDA): The DDA is an agreement between the City, through its Port Commission, and CBBC. Subject to approval of the proposed agreement by the Port Commission and Board of Supervisors, the parties would execute the DDA following certification of the EIR and adoption of the proposed amendments to the General Plan and the Rincon Point-South Beach Redevelopment Plan. The DDA provides the road map for the ballpark transaction. The DDA will, among other matters, set forth the terms and conditions for the parties to later enter into the Ground Lease. The form of the Ground Lease is attached to the DDA. Among the conditions that will need to be satisfied before the Ground Lease transaction may close under the DDA are that CBBC provide evidence to the City that it has adequate financing to build the ballpark, that CBBC obtain all required regulatory approvals for development of the project and that the City complete actions necessary to assemble and deliver the site, including completing the street vacations, acquiring the Caltrans parcel, obtaining possession from existing tenants, and relocating the Port maintenance facility. When the conditions to closing are satisfied, the Port and CBBC will enter into the Ground Lease, and the Port will deliver possession of the

site to allow CBBC to begin construction. The DDA will govern CBBC's obligation to construct the ballpark and related improvements from delivery of the site through completion of construction. The DDA requires that CBBC build the ballpark in accordance with a scope of development and schedule of performance. Under the DDA, CBBC will specifically agree to a program for hiring minority and women owned subcontractors in the construction of the ballpark and related improvements, and will also agree to prevailing wage provisions. Mitigation measures which are required under the EIR and other improvement measures related to the construction of the ballpark will be attached to the DDA. To the extent those measures are identified as the responsibility of the developer, they will constitute contractual obligations of CBBC under the DDA.

- The Ground Lease: The Ground Lease between the City, through its Port Commission, and CBBC is the principal document governing the use and occupancy of the site. Under the Ground Lease, the City will lease the land comprising the China Basin site, and CBBC will build, own and operate the ballpark and related improvements during the lease term. The Ground Lease sets the fair market rent which CBBC is required to pay the City for use of the property. The Ground Lease also defines the leased premises, establishes the term and delineates the permitted uses and limitations on uses. Limitations on uses include restrictions required under the tidelands trust. The Ground Lease specifically provides for the payment of possessory interest taxes (which are necessary to support issuance of the tax allocation bonds) and obligates CBBC to assume sole responsibility for the condition, maintenance, repair and operation of the project. The Ground Lease contains provisions requiring the approval of the Port for major alterations to the ballpark and imposing a number of requirements on how those improvements may be made. The Ground Lease permits CBBC to mortgage its leasehold interest (but not the City's ownership interest) as needed to obtain financing for development of the ballpark. Under the Ground Lease, CBBC will agree to a program to afford opportunities to minority and women owned businesses and San Francisco residents, including the development of a welfare-to-work and youth employment training program, in the operation of the project. Mitigation measures which are required under the EIR and other improvement measures related to the operation of the ballpark will be attached to the Ground Lease. To the extent those measures are identified as the responsibility of the tenant, they will constitute contractual obligations of CBBC under the Ground Lease.

- Non-Relocation Agreement and Guaranty: As an essential inducement for the City to lease the site to CBBC and for the City to approve the overall ballpark transaction, including the issuance of the tax allocation bonds to finance certain infrastructure to support the ballpark, the Team Owner will enter into two main agreements for the benefit of the City: a Non-Relocation Agreement and a Guaranty. Execution and delivery of the Non-Relocation Agreement, Guaranty and related documents is a condition to the City's obligation to close on the Ground Lease.

  Under the Non-Relocation Agreement, the Team Owner agrees to cause the Giants to play its home baseball games at the ballpark from completion of the Ballpark through December 2022, which is the end of the initial term of the Ground Lease. The Team Owner's agreement not to relocate is subject to a baseball lease and use agreement between CBBC and the Team Owner (the "Baseball Sublease") for the playing of San Francisco Giants baseball games in the new ballpark, once construction by CBBC is complete. Under the DDA, the

Baseball Sublease must be approved by the Port and in place before the Ground Lease closes. The Team Owner's agreement not to relocate is also subject to an Intercreditor Agreement between the City and the lenders to the Team Owner. The Intercreditor Agreement allows the City an opportunity to find a local buyer for the team before the lenders can compel a sale of the Giants baseball franchise to an outside buyer, if there is a default under the loan. Also related to the Non-Relocation Agreement is a Nondisturbance and Attornment Agreement which govern in the event of a default by CBBC under the Baseball Sublease. Under the Nondisturbance Agreement, if the Ground Lease is terminated due to CBBC's default, the City agrees not to disturb the Team Owner's occupancy of the ballpark and to be bound by the terms of the Baseball Sublease so long as the Team Owner performs all of its obligations directly to the City.

Under the Guaranty, the Team Owner agrees to guarantee certain obligations of CBBC to the City and the Redevelopment Agency if the Team Owner defaults under the Non-Relocation Agreement. The guaranteed obligations include CBBC's obligation pay rent to the Port and demolish the improvements under the Ground Lease and its obligation to pay debt service on the tax allocation bonds to the Redevelopment Agency under the OPA.

- The Caltrans Parcel Purchase and Sale Agreement: Special State legislation (Section 2.6 of Chapter 1333 of the Statutes of 1968, known as the Burton Act), gives the Port the right to negotiate directly with the State for the purchase of the Caltrans-owned parcel bounded by King, Berry, Second and Third Streets. The State legislation requires that the property be held by the City's Port Commission subject to the Burton Act, upon acquisition of the property. The Caltrans parcel comprises roughly one-third of the total ballpark site. As a condition to the closing of the Ground Lease under the DDA, the City, through its Port, must acquire the Caltrans Parcel and terminate the tenancies. The City, Caltrans and CBBC have negotiated an agreement in principle for the acquisition of the Caltrans Parcel. The terms of that agreement are described in a letter dated January 31, 1997, from the Mayor to the Board of Supervisors (copy attached).

- The Owner Participation Agreement (OPA): The Rincon Point-South Beach Redevelopment Plan is proposed to be amended to add the ballpark site to the project area to accommodate development of the ballpark and related improvements. If the plan amendments are adopted. the Redevelopment Agency of the City and County of San Francisco will enter into an Owner's Participation Agreement (the "OPA") with CBBC. The OPA will set forth the terms and conditions for the use of tax increment financing. The tax increment financing must be in place before the closing of the Ground Lease in order for CBBC to obtain its private loan to finance construction of the ballpark. The OPA will specify the permitted uses of the tax increment, including construction of the Waterfront Promenade along the China Basin Channel and other public infrastructure improvements. Under the OPA, the Redevelopment Agency will commit to use its best efforts, subject to Board of Supervisors approval, to issue tax allocations bonds in a principal amount sufficient to produce net proceeds not to exceed $15,000,000, based on the estimated tax increment revenues from the ballpark which will be available to pay debt service on the bonds. The issuance of the bonds is a condition to the closing of the Ground Lease under the DDA. No tax increment proceeds will be made available to CBBC in amounts exceeding the capacity of the possessory interest taxes generated by the ballpark development itself to pay debt service on the bonds. No tax

increment will be drawn from other project areas. In addition, under the OPA, CBBC will agree to pay any shortfall in tax increment revenues from the site needed to pay debt service on the bonds, including shortfalls due to any reassessment of the ballpark improvements. Failure by CBBC to pay any such shortfalls will constitute a default under the Ground Lease, and could result in forfeiture of the Ground Lease unless CBBC or the lenders for the ballpark cure the default. In addition to the tax allocation bonds, the OPA will address the responsibilities of the Agency and CBBC for the area where the ballpark and South Beach Park meet.

SUMMARY OF REFINEMENTS
TO FINANCIAL TERMS OF THE BALLPARK TERM SHEET

RENT:

- Addition of a floor and ceiling to the fair market rent adjustment at the end of the intial lease term. The floor is equal to 50% of the CPI adjustments to rent over the initial term, plus $1,200,000, which is the annual rent at the beginning of the term. The ceiling is 150% of the CPI adjustments to rent over the initial term, plus $1,200,000.

- Addition of a second fair market rent adjustment at the beginning of the 45th lease year. That adjustment is subject to floor and ceiling as in the case of the first fair market adjustment, except that the CPI adjustments to rent are based on the prior 20 year period.

- Clarification that the periodic CPI adjustments every 3 years with a 5% annual cap continue during the extension terms.

- Provisions for carryforwards of increases above the cap in CPI adjustments for limited periods, and provision for carryforward of decreases in CPI, subject to a floor.

- Rent credits for certain advances in transaction costs paid by CBBC to the Port in the amount of $250,000 payable through credits of $125,000 against installments of rent in 2000 and 2001.

- Provision for payment of fees by CBBC to extend the closing of the lease transaction and a fee to terminate the DDA before the lease closes, under certain circumstances. Provisions for rent credits against CPI adjustments in the amount of any extension fees paid before the lease closes.

STADIUM ADMISSIONS TAXES:

- Obligation of City to reimburse for the initial term of the lease the amount of any taxes the City may impose on admissions to home baseball games at the new ballpark the City in excess of $0.25 per ticket, which is the rate that generally is applicable to baseball games at the existing stadium, 3 Com Park at Candlestick Point. The obligation to reimburse is limited to funds other than Port trust funds and may not be paid through rent credits.

TERM:

- End of initial term on December 31, 2022 instead of November 2022 and corresponding adjustments in commencement of extension terms.

Office of the Mayor
SAN FRANCISCO

WILLIE LEWIS BROWN, JR.

January 31, 1997

The Honorable Barbara Kaufman
President of the Board of Supervisors
Members of the Board of Supervisors
War Memorial Veterans Building
401 Van Ness Avenue
San Francisco, CA 94102

Re: New Ballpark

Dear President Kaufman and Members of the Board of Supervisors:

In my December 16, 1996 letter advising you of the progress on the new ballpark project. I assured you that I would keep you informed of any major developments as they occurred. I am pleased to advise you that we have reached another critical milestone toward realization of the ballpark. On January 29, 1997, the California Transportation Commission (CTC) approved an agreement in principle on the basic terms of the purchase of the Caltrans parcel needed for the City's assembly of the site at China Basin.

The proposed transaction would provide for the purchase by the City, through the Port, of a Caltrans-owned parcel at 3rd and King Streets consisting of approximately 155,279 square feet (about 3.6 acres) of land area. The parcel, which adjoins Pier 46, comprises about 28% of the ballpark site. The remainder of the ballpark site is presently owned by the Port.

Section 2.6 of Chapter 1333 of the Statues of 1968 (known as the "Burton Act"), which was added by a bill I sponsored in the Assembly (AB 84), gives the Port the right to negotiate directly with Caltrans for the purchase of the property. The terms of the proposed purchase and sale agreement are in accordance with AB 84. The terms of the purchase are also in accord with the term sheet for the ballpark lease I presented to you in December.

The main terms of the proposed purchase and sale, which remain subject to your approval, are as follows:

- The purchase price for the property will be $3,600,000. The City would purchase the property with funds obtained through a financing to be arranged by the Port. The terms of that financing would, of course, be subject to your approval. The Port would have

jurisdiction over the property, and the property would be held subject to the Burton Act trust in accordance with the requirements of AB 84. The fair market value rent in the term sheet for the ballpark lease was premised on the Port's purchase of the Caltrans property, with its funds.

- A $100,000 deposit is required of the City by March 31, 1997. The deposit is nonrefundable unless the transaction does not close due to Caltrans' failure to perform. If the transaction closes, the deposit is applied to the purchase price. The Port will pay the required deposit.

- The close of escrow must occur before December 31, 1997. If the City proposes to close the transaction at a later date, Caltrans reserves the right to renegotiate the price. It is anticipated that the closing would occur in July, 1997 in order to meet the proposed ballpark schedule.

- Once the transaction has closed, the City will be obligated, subject to certain exceptions, to indemnify Caltrans for any claims arising out of the presence or release of hazardous materials. The hazardous materials indemnity will terminate 20 years after the closing with respect to claims made against Caltrans by third parties. The City will also require the Giants entity which will develop the ballpark, China Basin Ballpark Company ("CBBC"), to provide a similar hazardous materials indemnity to the City under the final ground lease agreement. After carefully considering the results of hazardous materials studies of the site, the City's expert environmental staff believe that the proposed indemnity is commercially reasonable. The purchase price reflects an adjustment for the hazardous materials indemnity Caltrans is requiring as a condition of the sale.

- The City will purchase the property in its "as is" condition. The property is improved with seven warehouse buildings that have significant deferred maintenance and are nearing the end of their economic lives. There is a total of approximately 30 occupants, including subtenants, all under month-to-month leases. The purchase price reflects an adjustment for these conditions.

- CBBC believes that it may be necessary to begin the process of terminating the leases before the close of escrow in order to meet the construction schedule for the new ballpark. Accordingly, the agreement provides that before the close of escrow Caltrans, at the request of CBBC, will take actions required to terminate private tenancies of the property, but only if CBBC provides an indemnity to Caltrans for any costs arising out of such terminations. The City would not be a party to the indemnity and would not have any liability for the costs of terminating the leases unless and until the City actually purchases the property. CBBC would be responsible for paying any costs of terminating the leases and relocating tenants incurred at any time before escrow for the purchase of the Caltrans parcel closes.

- Upon the close of escrow the City will assume responsibility for terminating the leases of the tenants and providing any relocation assistance and benefits. Once the City acquires title to the property, the City will indemnify Caltrans for any claims for relocation assistance made by the tenants and for other claims by tenants arising out of lease terminations done after the

closing by the City or before the closing with the City's consent. By the terms of a separate proposed agreement between the City and CBBC, the City's responsibility for terminating the leases and providing relocation assistance will be limited to a total of $500,000. Any allowable amount in excess of $500,000 must be paid by CBBC. The City's obligations for the purchase of the property and the relocation of the tenants will thus not exceed $4,100,000, as provided in the term sheet between the City and CBBC, which I forwarded to you on December 16, 1996.

- Caltrans, the City and CBBC will enter into a non-binding term sheet containing the essential terms of the purchase and sale outlined in this letter. Within 60 days after executing the term sheet, the City and Caltrans will attempt to enter into a Sales Agreement, provided that the City will have no obligation under such agreement to purchase the property or proceed with the transaction unless and until environmental review required under the CEQA has been completed and the Port Commission and Board of Supervisors have approved the acquisition. The final Sales Agreement, and the City's option to acquire the property on the terms summarized in this letter, will be brought to you for your approval. As I mentioned in my December 16, 1996 letter, I anticipate that the final agreement will be presented to you for approval, together with the other agreements and actions required for the project, in June or July of this year.

The State's approval of the agreement in principle for the purchase of the Caltrans parcel is a major step toward the attainment of the ballpark project consistent with the proposal outlined in the December 1996 term sheet. Please contact Rudolf Nothenberg of my office if you have questions regarding this matter.

Very truly yours,

The Honorable Willie Lewis Brown, Jr.
Mayor

cc: John L. Taylor, Clerk of the Board of Supervisors
Michael Hardeman, President of the Port Commission
and Members of the Port Commission
Douglas Wong, Executive Director of the Port
Peter Magowan, Chairman, CBBC
Richard Murphy, Caltrans

Office of the Mayor
SAN FRANCISCO

WILLIE LEWIS BROWN, JR.

December 16, 1996

The Honorable Barbara Kaufman
President of the Board of Supervisors
Members of the Board of Supervisors
War Memorial Veterans Building
401 Van Ness Avenue
San Francisco, CA 94102

Re: New Ballpark

Dear President Kaufman and Members of the Board of Supervisors:

I am pleased to transmit to you a term sheet which outlines terms for a proposed lease of the approximately 12.5 acre site in China Basin for development of the proposed new ballpark for the San Francisco Giants. I believe that this term sheet is fully consistent with the policies and purposes of Proposition B approved by the voters of the City and County of San Francisco on March 26, 1996. One of the main features of the proposal is that the Giants franchise will commit to play at the new ballpark for a minimum of 23 seasons after opening day under an agreement directly with the City.

The document sets forth a balanced and reasonable proposal that brings the waterfront ballpark one step closer to becoming a reality. It is an important step because the term sheet covers a number of basic business terms of the proposed lease and provides the framework for the actions the Giants and the City agencies need to take for the site to be assembled, entitlements to be granted, and the ballpark and complementary improvements to be financed and built. The proposed term sheet is acceptable to the Giants and to their private lenders, who together are poised to make the substantial private investment necessary for the development of the new ballpark.

I intend to sign this term sheet upon presentation of the document to the Port Commission. I am sending the proposed term sheet to you at this time so that you may be informed of this important step in our negotiations with the Giants. However, I want to make clear that the term sheet is not intended to be and cannot be legally binding on the parties. The lease agreements and approval actions contemplated by the term sheet remain subject to environmental review under the California Environmental Quality Act (CEQA), as well as public review and hearings required by law. Only after the environmental review process for the

proposed ballpark has been completed and only after all necessary governmental approvals have been obtained following completion of the environmental review may any binding contractual agreements be consummated. Moreover, it would be premature to reach conclusive agreement on the lease before there is an opportunity for full public input on a comprehensive and final proposal.

The basic principles of the proposed term sheet may be summarized as follows:

- The lease of the ballpark site will be to China Basin Ballpark Company (CBBC). CBBC is a separate entity established and controlled by the Giants partnership for the purpose of developing and operating the new ballpark. CBBC will be the borrower from a lending syndicate of a $140 million private loan for construction of the park, and CBBC will build the ballpark at its cost. Giants management has assured the City that the financing to CBBC is in place. Revenues from the ballpark and complementary improvements will flow to CBBC, including proceeds from the sale of charter seats, proceeds from the naming rights agreement with Pacific Bell and rent paid by the Giants franchise under a sublease with CBBC.

- The lease is for a term of 25 years from delivery of the site to CBBC, which is anticipated to occur in late summer or fall of 1997. The initial lease term corresponds to 23 seasons of baseball at the new park. The lease potentially could continue for a total of 66 years from site delivery, consistent with the limitations on tidelands trust property under the Burton Act. The lease would include successive 5-year renewal options at the end of the 25-year initial term.

- The Giants franchise will enter into an agreement directly with the City to play their home games at the new ballpark for 23 seasons after the new ballpark opens. The end of the term of the non-relocation agreement corresponds with the end of the initial lease term. The non-relocation term compares favorably with the minimum term of leases at other new ballparks, such as Coors Field, even though those ballparks were financed almost entirely with public dollars.

- CBBC will pay fair market rent to the Port. Full rent of $1.2 million per year begins upon delivery of the site to CBBC. The Director of Property and Executive Director of the Port both advise me that the ground lease rent is well within the range of market rent for the site, taking into account its existing physical, hazardous material and soil conditions and applicable tidelands trust limitations. The rent is subject to certain cost-of-living escalations during the initial lease term. The rent is reset to market at the end of the initial term if the Giants elect to extend the term.

- CBBC agrees to advance up to $500,000, at the City's option, for mutually agreed-upon City transaction costs, such as staff and legal costs of preparing and processing the lease documents. CBBC will get credit against rent for any such advances, with interest at CBBC's actual cost of funds up to a maximum of 8.5%. The rent credit for such advances

are capped at $75,000 per year. CBBC also agrees to pay all costs and fees of entitling the project, which other developers would pay. There is no credit against rent for these costs.

- Available property tax increment generated by development on the ballpark site may be used for ballpark-related infrastructure as mutually agreed-upon. CBBC agrees to provide certain assurances of repayment of Redevelopment Agency tax increment debt for the ballpark-related infrastructure if the term of the bonds exceeds the term of the lease or if possessory interest taxes from the site are reduced below a level needed to service the indebtedness.

- CBBC will remediate hazardous materials at the site as required by regulatory bodies for the development of the ballpark. CBBC is also responsible for all demolition, pier substructure and other site preparation costs.

- The Port will be responsible for delivering the site free of the Port occupancies. The Port will also be responsible for purchasing the parcel at 3rd and Berry, which Caltrans controls. The Caltrans parcel is expected to acquired through a negotiated agreement with the State. The Port's responsibility for purchasing the Caltrans parcel and relocating the private tenants from the property is limited to $4,100,000. If the total costs exceed such amount, the terms and conditions for any such excess are subject to further agreement of the parties.

- The schedule for the proposed ballpark project provides for site delivery in July-September 1997 and an April 2000 opening.

- CBBC agrees, at the Port's option, to demolish the improvements and return the site to the Port in developable condition at the end of the lease term if CBBC does not exercise at least two 5-year renewal options at the end of the minimum term, for a total lease term of at least 33 baseball seasons at the new ballpark.

As I mentioned at the beginning of this transmittal letter and as is made clear in the document itself, the proposed term sheet will not create any contractually binding obligations on the part of the City. The Board of Supervisors, City commissions and Redevelopment Agency Commission will retain the absolute discretion to (i) make such modifications to the form of the lease and the ballpark project that are deemed necessary to mitigate significant environmental impacts; (ii) select other feasible alternatives to avoid such impacts; (iii) balance the benefits against unavoidable significant impacts prior to taking final action if such significant impacts cannot otherwise be avoided; or (iv) determine not to proceed with the project.

Upon completion of the environmental review process, a number of Board of Supervisors approvals will be necessary in connection with this project, including adoption of the CEQA findings and approval of amendments to the City's General Plan, amendments to the Rincon-South Beach Redevelopment Plan, lease agreements, acquisition of the Caltrans parcel, and street vacations. In addition, various approvals by the City Planning Commission, Port Commission and Redevelopment Agency Commission will be necessary before the full proposal comes to you for your consideration. I anticipate that the full proposal will be presented to you in June or July

of next year, including a final lease agreement to be negotiated consistent with the principles outlined in the term sheet.

Execution of the term sheet is a significant step in the timely implementation of Proposition B, and I am delighted to be able to present the proposal to you.

Very truly yours,

The Honorable Willie Lewis Brown, Jr.
Mayor

enc.: Proposed term sheet

cc: John L. Taylor, Clerk of the Board of Supervisors

TERM SHEET
FOR LEASE OF NEW BALLPARK SITE

This term sheet dated as of December 20, 1996 summarizes certain of the basic financial terms of a fair market value lease by the City and County of San Francisco, through its Port, (the "City") to the China Basin Ballpark Company ("CBBC"), a limited liability company controlled by San Francisco Baseball Associates L.P. (the "Team Partnership"), of real property bounded generally by the easterly line of Third Street, the southerly line of King Street, the easterly line of Second Street and China Basin Channel, for development and operation of an open air waterfront ballpark and complementary improvements, known as "Pacific Bell Park."

This term sheet is intended to be the basis for a comprehensive ground lease and related agreements appropriate to facilitate development of the ballpark project. Subject to environmental review, the public review process and all required governmental approvals, as further provided in the last paragraph of this term sheet, the parties shall in good faith negotiate the lease and related agreements by May 30, 1997 in accordance with the following principles.

RENT: CBBC shall pay annual rent to the City's Port, in advance and in quarterly installments, beginning upon delivery of the site, in accordance with the following rent schedule:

- Site delivery (1997) through March 2003: $1,200,000 per year.
- April 2003 through March 2006: At the beginning of this period, the $1,200,000 annual rent will be adjusted by increases in the Consumer Price Index for All Urban Consumers (base years 1982-1984 = 100) for the San Francisco-Oakland-San Jose area ("CPI"), based on compounded increases for the period from site delivery (1997) to the adjustment date; provided, however, the increase in CPI shall be limited to 3% per year for such period.
- April 2006 through the end of the initial term (October 2022): Annual rent will be adjusted every 3 years, beginning at the start of this period, based on compounded CPI increases for the previous 3-year period; provided, however, the increase in CPI shall be limited to 5% per year for each adjustment period.
- First extension term (November 2022) through end of maximum term (October 2062): At the beginning of the first extension term, annual rent will be adjusted to fair market rent in accordance with the following procedure. CBBC will give the City at least 24 months' advance written notice of CBBC's intent to extend the initial lease term. The parties will then

attempt to agree on fair market rent. Fair market rent shall be based on the value of the land at the time of the rental adjustment, without regard to the value of the ballpark improvements and unencumbered by the lease. The land shall be valued under a reasonably achievable development scenario consistent with land use regulations then in effect. The development scenario shall not assume any amendment or modification to the land use regulations, other than as permitted under then-existing procedures for exceptions, variances or conditional-use authorizations. Land use regulations shall include regulations relating to urban design, density, height and bulk of structures, compatibility with surrounding land uses, requirements to avoid environmental impacts, and investigation or remediation of hazardous materials, as all such regulations are likely to be applied to any particular development proposal at this location. If the value is determined based on any use which would require the demolition of any or all of the improvements then existing on the premises, the estimated cost of such demolition shall be reflected in the determination of value. If the parties are unable to reach agreement on fair market rent within 12 months of CBBC's notice, CBBC may either (1) withdraw its notice of intent to extend the term, or (2) confirm its election to extend the term, in which case rent shall be determined through the following process. Each party shall select an appraiser who shall arrive at an estimate of fair market rent. If the two appraisals are within 10% of the higher of the two, the fair market rent will be the average of the two appraisals. If the two appraisals differ by more than 10% of the higher of the two, the parties shall select an independent arbitrator. The arbitrator shall consider the data and conclusions of the two appraisals and other relevant information provided by the parties and shall select the appraised fair market rent from one of the first two appraisals that is closer to such arbitrator's determination of fair market rent. The determination of the fair market rent by such appraisal or arbitration process shall be conclusive and binding on the parties.

The lease shall be on an absolutely net basis. Rent shall be paid to the City's Port without offset or reduction of any kind, except only for a credit against rent for funds advanced by CBBC, to the extent the City may, at its option, request such advances, to pay for certain City transaction costs agreed to by the parties. The total

amount of such advances shall not exceed $500,000. Such advances shall be reimbursed through credits against annual rent of up to $75,000 per year, until the total amount of the funds advanced, together with interest accrued thereon, has been reimbursed through such credits. Interest shall accrue on the unreimbursed amount of the funds advanced at an annual rate equal to CBBC's actual cost of funds, not to exceed 8.5% per year (assuming twelve 30-day months). The Port may elect, in its sole discretion, to reimburse such advances from rent payable under the lease or other Port revenues in annual amounts greater than $75,000, without penalty. Except as provided above and in the paragraphs below regarding site delivery and entitlements, CBBC shall not be required to pay any other sums to the City for its assembly or delivery of the site or for City transaction costs.

TERM: Minimum term of approximately 25 years from site delivery, for a term that expires in October 2022, assuming site delivery occurs in 1997. The term may be extended at the option of CBBC for successive 5-year periods, up to a maximum of 66 years from site delivery. CBBC will give advance notice of its intent to extend the initial term as provided above in the paragraph regarding rent. After the first extension option, CBBC will give at least 12 months' notice of its intent to exercise any subsequent extension option.

SITE DELIVERY: Prior to site delivery, CBBC shall, among other things, demonstrate to the City's satisfaction that it has secured adequate financing for construction of the ballpark project. The City shall deliver the site to CBBC vacant of Port tenants and other Port occupancies on Pier 46 but otherwise in its as is condition. Concurrently with or before site delivery, the City will acquire the Caltrans parcel (Assessor's Block 3794) pursuant to a negotiated agreement with the State. The City will be responsible for the purchase price for the Caltrans Parcel and ordinary tenant relocation costs, up to a maximum of $4,100,000. However, if it is determined that the total purchase price and ordinary relocation costs will exceed such maximum amount, the terms and conditions for payment of the excess costs will be subject to mutual agreement of the parties.

USE: Subject to applicable zoning regulations and any limitations which the tidelands trust may impose on the premises, the premises may be used for playing the Giants' major league baseball games and

for such other purposes consistent with the ballpark project as the parties may agree upon. The City shall grant to CBBC access rights during the lease term for pedestrians and vehicles over the area east of the easterly line of Second Street, provided that such use will be coordinated with the uses of South Beach Park, as it may be improved, under the redevelopment plan.

NON-RELOCATION AGREEMENT:

As a material inducement to the City to enter into the lease with CBBC, to approve issuance by the Agency of the financing for certain infrastructure as described below and to undertake other endeavors to achieve the purposes hereof, the Team Partnership shall covenant directly with the City to play its home baseball games at the ballpark for 23 seasons after opening day (assuming site delivery in 1997) under the terms of the baseball sublease referred to below. Except solely in the case of foreclosure or a Work-out Sale under the Team Loan in accordance with the principles of the Intercreditor Agreement described below, the Team Partnership (or any successor) will require any purchaser of the franchise to assume such covenant directly for the City's benefit. The City shall have all remedies at law or in equity, including particularly the remedy of specific performance, for a breach or threatened breach of such covenant by the Team Partnership or any successor purchaser of the franchise. In addition, the Team Partnership shall agree to provide the City with at least 6 months' advance written notice before submitting any written application to the National League for approval of a relocation, or entering into any written agreement to transfer the franchise to another location, where such relocation would occur after the end of such 23-season period. The notice will specify in reasonable detail the reasons for seeking to relocate the team. As a condition to delivery of the site to CBBC, the Team Partnership shall be obligated to deliver the non-relocation agreement approved by the Office of the Commissioner of Baseball and any other Major League Baseball authorities whose approval is required under Major League Baseball's rules and regulations.

In connection with the non-relocation agreement, the Team Partnership shall enter into a sublease with CBBC to play its home games in the ballpark for a minimum term that is equal to the term of the non-relocation agreement. The baseball sublease shall be subject to all of the terms and conditions of the ground lease between the City and CBBC. The City shall have the right to

approve, in advance, the form and business terms of the baseball sublease. The City and the Team Partnership shall enter into a "non-disturbance and attornment" agreement with the lenders to the Team Partnership (the "Team Lenders") whereby the City would agree to accept the Team Partnership (or any successor) as a direct tenant under the terms of the baseball sublease and the Team Partnership would agree to recognize the City as its direct landlord under the terms of the baseball sublease, if the ground lease between the City and CBBC terminates before the end of the initial term. The non-disturbance and attornment agreement shall also provide that the City shall have the right to cure any default by CBBC of its obligations as landlord under the baseball sublease, provided that the City commences and completes such cure within a reasonable period of time under all circumstances. The City's cure rights shall be subject to "mortgagee protection" provisions that are reasonably satisfactory to lenders financing the ballpark (the "Ballpark Lenders"), and the City's cure rights shall begin upon the expiration of the cure rights granted to the Ballpark Lenders.

The Team Partnership, the City, the Ballpark Lenders and the Team Lenders will enter into an Intercreditor Agreement whereby the parties will agree that, notwithstanding the relocation covenants set forth in the non-relocation agreement, the following provisions shall apply to any sale (a "Work-out Sale") of the franchise as a result of a default under the loan secured by the franchise (the "Team Loan"):

(A) The Team Lenders shall have the right to give notice to the City and all other parties to the Intercreditor Agreement of any outstanding loan default under the Team Loan at any time (the "City Notice Date");

(B) No Work-out Sale or other foreclosure or transfer in lieu of foreclosure shall be completed for a period of 90 days following the City Notice Date (the "Standstill Period"). This will give the Team Partnership and the City an opportunity to find a buyer which will acquire the franchise and assume in writing the obligations of the Team Partnership under the Non-Relocation Agreement and under the baseball sublease (a "Local Buyer"). Subject to the approval of the Team Lenders, the

Team Partnership may sell the franchise at any time to a Local Buyer;

(C) After the expiration of the Standstill Period, the Team Partnership and Team Lenders will be permitted to sell the franchise in a Work-out Sale to a buyer that wishes to relocate the team outside of San Francisco and which will not be subject to the non-relocation agreement (an "Outside Buyer") only if at the time of such Work-out Sale no Local Buyer has been approved by Major League Baseball and has made a bona fide offer to purchase the franchise at a price and on terms which are either:

(i) sufficient to repay in full all indebtedness owed by the Team Partnership to the Team Lenders and all indebtedness owed by CBBC to the Ballpark Lenders; or

(ii) at least as favorable to the Team Partnership, the Team Lenders and the Ballpark Lenders as the price and terms offered by the Outside Buyer.

The Intercreditor Agreement will not have any effect on the City's rights under the non-relocation agreement with respect to any transfer of the franchise which is not a Work-out Sale.

The Team Partnership shall agree, separately, to guaranty the City for payment of certain monetary obligations of CBBC under the ground lease (as such obligations are described below) if: (1) the Team Partnership violates the non-relocation covenant or, in the event of a Work-out Sale or foreclosure sells the franchise to an Outside Buyer subject to the principles of the Intercreditor Agreement described above; (2) the City is prevented from or determines not to seek specific performance; and (3) CBBC is in breach of the ground lease (including, but not limited to, a breach by virtue of a default under the non-relocation agreement) or CBBC files for bankruptcy. Such guaranty shall include specifically the obligation to pay unpaid rent at the time of such termination (including rent over the balance of the initial term less rental loss that could be reasonably avoided), the then outstanding principal and any interest on the tax allocation bonds issued by the Agency for certain ballpark related infrastructure as described

further below, and the costs of demolishing all or any part of the ballpark improvements if the City elects to require demolition under the ground lease as provided further below. Except solely in the case of foreclosure or a Work-out Sale under the Team Loan in accordance with the principles of the Intercreditor Agreement described above, the Team Partnership (and any successor) will require any purchaser of the franchise to assume such obligations directly for the City's benefit.

IMPROVEMENTS: CBBC shall be responsible for all costs of constructing and operating the ballpark project, including, without limitation, demolition, hazardous materials investigation and remediation in accordance with a remediation plan approved in advance by the Port and acceptable to the Regional Water Quality Control Board ("RWQCB"), substructure improvements and other site preparation work. CBBC shall also cooperate with the Agency in the design and construction of open space and parking garage improvements to the adjoining area of South Beach Park, provided that the Agency provides the funds for such design and construction.

Property tax increment generated from the ballpark project site (exclusive of the affordable housing set aside and the statutory allocation for other public agencies) shall be made available to finance public improvements needed in connection with development of the ballpark. The uses and amounts of such increment shall be as agreed to by the parties. Availability of increment for such purposes shall be subject to, among other things, approval by the Redevelopment Agency Commission and Board of Supervisors of a redevelopment project area amendment covering the site and an allocation of tax increment revenues. If the term of the tax increment bonds exceeds the minimum term of the lease, then the availability of tax increment may also be subject to provision by CBBC of a guaranty or other financial assurance, as agreed by the parties, as needed to support the debt service for the term of the bonds in excess of the lease term. If after the Agency issues such tax increment bonds, property tax revenues collected from the ballpark project are reduced due to a reassessment or otherwise, rent under the lease shall be increased for such period and by such amount, if any, as needed to pay the debt service for such bonds issued to finance ballpark-related infrastructure. The additional rent shall be paid to the Agency and shall not exceed the amount of the reduction in property taxes.

If CBBC does not renew the lease for at least 2 renewal periods after the end of the initial term (for an extended term of at least 35 years from site delivery), the City shall have the option to require CBBC to raze the improvements or portions thereof as the City may designate, remove the rubble and cause the site to be surrendered in a safe condition, in accordance with then applicable laws.

ENTITLEMENTS: Subject to applicable laws, the City and CBBC shall cooperate to expedite required environmental review and review of development applications, permits, and approvals necessary to allow the ballpark project to be developed in accordance with the attached anticipated project schedule. The attached schedule reflects projections based on current information and certain assumptions. No assurance can be given that the schedule will be met. CBBC shall obtain all required regulatory permits and approvals and bear the costs associated therewith.

While this term sheet summarizes certain essential financial terms of the proposed ground lease, it does not set forth all of the material terms and conditions of the lease. The signature of the Mayor below acknowledges his support for the proposed lease on the terms specified herein. However, this term sheet is not intended to be, and shall not become, contractually binding on the City (including its Port), CBBC or the Team Partnership, and no legal obligation shall exist unless and until the parties have negotiated, executed and delivered mutually acceptable agreements based upon information produced from the environmental review (CEQA) process and on other public review and hearing processes and subject to all applicable governmental approvals. The City retains the absolute discretion before action on the project by the Board of Supervisors, Port Commission or any other commission, to (i) make such modifications to the form of the lease and the ballpark project that are deemed necessary to mitigate significant environmental impacts; (ii) select other feasible alternatives to avoid such impacts; (iii) balance the benefits against unavoidable significant impacts prior to taking final action if such significant impacts cannot otherwise be avoided; or (iv) determine not to proceed with the project.

Read and approved by:

CITY:

Mayor Willie L. Brown, Jr.

CBBC:

China Basin Ballpark Company, LLC
a Delaware limited liability company

Peter A. Magowan, Chairman and Chief Executive Officer

Read and approved as to the non-relocation agreement set forth above:

TEAM PARTNERSHIP:

San Francisco Baseball Associates, L.P..
a limited partnership
By: Magowan Baseball, Inc.
its Managing General Partner

Peter A. Magowan, President

ANTICIPATED PROJECT SCHEDULE

Certification of Ballpark Project EIR	June 1997
Approval of Lease and Other Project Documents and Actions by City Boards and Commissions and the Redevelopment Agency, including Adoption of Redevelopment Plan Amendment	June-July 1997
Approval of Lease by State Lands Commission and Issuance of BCDC Permit	July-August 1997
Closing of Purchase of Caltrans Parcel	July-September 1997
Delivery of Site	July-September 1997
Commencement of Site Preparation Work	July-September 1997
Opening of Ballpark to the Public	April 2000

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SUMMARY OF SCHEDULE FOR APPROVAL HEARINGS FOR THE PROPOSED BALLPARK AT CHINA BASIN
(Revised as of June 26, 1997)

This schedule summarizes the projected hearing schedule under which the City and Redevelopment Agency would consider the proposed ballpark project at China Basin. In general, the required approvals fall into two categories: (1) land use approvals, which are the first set of approvals required to implement Proposition B; and (2) approvals of the basic transaction documents needed for development of the project, which generally follow adoption of the land use measures.

The main actions required for the land use approvals are as follows: certification of the EIR for the ballpark project by the Redevelopment Agency and Planning Commissions, adoption of amendments to the General Plan by the Planning Commission and Board of Supervisors, conditional use authorization by the Planning Commission, and adoption of amendments to the Rincon Point-South Beach Redevelopment Plan by the Redevelopment Agency Commission and Board of Supervisors. Certain street areas located within the ballpark site also need to be vacated to allow development to go forward.

There are five principal transaction documents which will be considered in connection with the ballpark project and are required for the transaction to proceed. Those are: (1) a Lease Disposition and Development Agreement ("DDA"); (2) a Ground Lease; (3) a Non-Relocation Agreement and related Guaranty; (4) a Purchase and Sale Agreement for the Caltrans parcel located within and necessary to the ballpark site; and (5) an Owner Participation Agreement. The first four documents will be considered at public hearings by the Port Commission and the Board of Supervisors. The OPA will be considered at a public hearing by the Redevelopment Agency Commission.

The summary of the anticipated hearing dates and actions that will be considered follows. Please note that the hearing dates are subject to change.

I. LAND USE APPROVALS

June 26 — Certification of the EIR at a joint meeting of the Redevelopment Agency Commission and the City Planning Commission

Planning Commission also to consider:
- Adopting CEQA findings, including mitigation measures and a mitigation monitoring program
- Approving amendments to the General Plan and recommending that the Board of Supervisors adopt an ordinance approving the amendments
- Finding consistency of the Redevelopment Plan amendments with the City's General Plan, as amended, and Eight Priority Policies of City Planning Code Section 101.1, and recommending adoption of the Redevelopment Plan amendments by the Board of Supervisors
- Approving amendments to the Design for Development for the Rincon Point-South Beach Area

Redevelopment Commission also to consider:

- Adopting CEQA findings, including mitigation measures and a mitigation monitoring program
- Approving a report on the proposed Redevelopment Plan amendments and forwarding the report to the Board of Supervisors
- Approving a proposed amendment to Redevelopment Plan and requesting that the Board of Supervisors adopt an ordinance approving the amendments
- Approving amendments to the Redevelopment Plan for Rincon Point-South Beach
- Approving amendments to the Design for Development for the Rincon Point-South Beach Area

June 30 — Board of Supervisors hearing acting as a committee of the whole to consider:

- Adopting a CEQA resolution, including findings and adoption of a mitigation monitoring program in connection with the proposed approval of the General Plan and Redevelopment Plan amendments
- Approving the General Plan amendments
- Approving the Redevelopment Plan amendments

July 7 — Board of Supervisors to consider final adoption (second reading) of the General Plan Amendments and Redevelopment Plan amendments

July 10 — Planning Commission hearing to consider approving a conditional use permit, and consideration of findings of consistency with the City's General Plan and Priority Policies of Planning Code Section 101.1

July 14 — Board of Supervisors hearing acting as a committee of the whole to consider an ordinance to vacate the street areas within the ballpark site, followed by a first reading of the street vacation ordinance

July 21 — Board of Supervisors hearing to consider final adoption (second reading) of the street vacation ordinance

II. TRANSACTION APPROVALS

June 23 — Resolutions approving the transaction documents, including the DDA, Ground Lease, Non-Relocation Agreement and Caltrans Parcel Purchase, and CEQA resolution, introduced at the Board of Supervisors

July 15 — Redevelopment Agency Commission hearing to consider approval of the Owner Participation Agreement

July 16 — Port Commission hearing to consider:

- Approving CEQA findings, including mitigation measures and a mitigation monitoring program
- Findings of conformity with the Burton Act
- Approving the transaction documents, including the Lease Disposition and Development Agreement, the Ground Lease, the Non-Relocation Agreement and Guaranty, the Agreement to Purchase the Caltrans Parcel
- Authorizing and recommending approval by the Board of Supervisors of a supplemental appropriations ordinance for the purchase of the Caltrans Parcel and relocation of tenancies
- Approving and ratifying the amendments to the Redevelopment Plan
- Approving, ratifying and recommending to the Board of Supervisors the vacation of the street areas

July 23 — Finance Committee of the Board of Supervisors hearing to consider:

- Recommending approval to the full Board of a CEQA resolution, including findings, mitigation measures and mitigation monitoring program, for the transaction documents
- Recommending approval to the full Board of the DDA, Ground Lease, Non-Relocation Agreement and Guaranty, and Purchase Agreement for the Caltrans Parcel
- Recommending approval to the full Board of a supplemental appropriations ordinance for the purchase of the Caltrans parcel

July 28 — Board of Supervisors hearing to consider:

- Adoption of a CEQA resolution, including findings, mitigation measures and adoption of a mitigation monitoring program in connection with the transaction documents
- Adoption of resolutions approving and authorizing the transaction documents
- First reading of the supplemental appropriations ordinance for the purchase of the Caltrans Parcel

August 4 — Board of Supervisors hearing to consider adoption (second reading) of supplemental appropriations ordinance for the purchase of the Caltrans Parcel

September [date not yet scheduled] — Redevelopment Agency Commission hearing to consider amending the Agency's budget and requesting the Board of Supervisors to allocate tax increment from the ballpark site and authorize issuance of tax allocation bonds

Board of Supervisors actions to amend the Agency's budget, and allocate the tax increment and authorize the issuance of the bonds

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 97-53

WHEREAS, The proposed new ballpark for the San Francisco Giants is generally bounded by King Street, Second Street, China Basin Channel and Third Street and comprises Lots 3B and 27 of Assessor's Block 9900, Piers 46B and 46C, Seawall Lot 336 and a portion of Seawall Lot 335, including streets ("Ballpark Site"); and,

WHEREAS, The Ballpark Site comprises approximately 13 acres and is an underutilized and underdeveloped industrial area; and,

WHEREAS, On March 26, 1996, the voters of the City and County of San Francisco approved Proposition B which amended the City Planning Code to establish standards for a ballpark at the Ballpark Site and, among other things, created the Northeast China Basin Special Use District (Section 249.18 of the City Planning Code); and,

WHEREAS, The Port of San Francisco, the Planning Department and the Redevelopment Agency have undertaken a planning and environmental review process for the proposed ballpark and other uses on the Ballpark Site and provided for appropriate public hearings before the Port Commission, the Planning Commission, the Board of Supervisors and the Redevelopment Agency Commission; and,

WHEREAS, China Basin Ballpark Company LLC submitted its application for Environmental Review on April 3, 1996, (File No. 96.176E); and,

WHEREAS, Consideration of Burton Act Findings, the Lease Disposition and Development Agreement, the Ground Lease, the Agreement to Purchase the Caltrans Parcel, the Non-Relocation Agreement and Guaranty, the street vacations and Ratification of the Redevelopment Plan and General Plan Amendments (collectively the "Actions") are part of a series of considerations in connection with the Project; and,

WHEREAS, On March 14, 1997, the Planning Department and the Redevelopment Agency Commission held a joint public hearing on the Draft Environmental Impact Report on April 17, 1997 and further written public comments were received until 5:00 p.m. on April 30, 1997; and,

WHEREAS, A Final Environmental Impact Report ("FEIR") for the Project has been prepared by the Planning Department and Redevelopment Agency consisting of the Draft Environmental Impact Report, the comments received during the review period, any additional information that became available and the Draft Summary of Comments and Responses, all as required by law; and,

WHEREAS, The FEIR files and other Project related Department and Agency files have been available for review by this Port Commission and the public, and those files are part of the record before this Port Commission; and,

WHEREAS, On June 26, 1997, the Planning Commission and the Redevelopment Agency Commission reviewed and considered the FEIR and, by Motion No. 14398 and Resolution No. 96-97, respectively, found that the contents of said report and the procedures through which the FEIR was prepared, publicized and reviewed complied with the provisions of the California Environmental Quality Act ("CEQA") and the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code; and,

WHEREAS, By Motion No. 14398 and Resolution No. 97-97, the Planning Commission and the Redevelopment Agency Commission, respectively, found that the Final Environmental Impact Report was adequate, accurate and objective, reflected the independent judgement of each Commission and that the summary of Comments and Responses contained no significant revisions of the draft Environmental Impact Report, adopted findings of significant impacts associated with the Project and certified the completion of the Final Environmental Impact Report for the Project in compliance with CEQA and the CEQA Guidelines; and,

WHEREAS, The Planning Department and Redevelopment Agency prepared proposed Ballpark Findings, as required by CEQA, regarding the alternatives and variants, mitigation measures and significant environmental impacts analyzed in the FEIR, overriding considerations for approving the Project including the Actions, and a proposed mitigation monitoring program, which material was made available to the public and this Port Commission for the Port Commission's review, consideration and actions; now, therefore, be it

RESOLVED, That the Port Commission has reviewed and considered Planning Commission Motion No. 14398 certifying the FEIR and finding the

FEIR adequate, accurate and objective, and reflecting the independent judgement of the Planning Commission; and, be it further

RESOLVED, Based upon the Port Commission's review of the FEIR, the Port Commission hereby finds that: (1) modifications incorporated into the Project and reflected in the Actions will not require important revisions to the FEIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; (2) no substantial changes have occurred with respect to the circumstances under which the Project or the Actions are undertaken which would require major revisions to the FEIR due to the involvement of new significant environmental effects, or a substantial increase in the severity of effects identified in the FEIR; and (3) no new information of substantial importance to the Project or the Actions has become available which would indicate: (a) the Project or the Actions will have significant effects not discussed in the FEIR; (b) significant environmental effects will be substantially more severe; (c) mitigation measures or alternatives found not feasible which would reduce one or more significant effects have become feasible; or (d) mitigation measures or alternatives which are considerably different from those in the FEIR would substantially reduce one or more significant effects on the environment; and, be it further

RESOLVED, That the Port Commission has reviewed and considered the FEIR and hereby adopts the Port Ballpark Findings, attached hereto as Attachment A, including its Exhibits 1 and 2, and incorporates the same herein by this reference.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of July 16, 1997.

_____
Secretary

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ATTACHMENT A
PORT PACIFIC BELL PARK FINDINGS

I. INTRODUCTION.

The following findings are hereby adopted by the Port Commission of the City and County of San Francisco ("Port Commission") pursuant to the requirements of the California Environmental Quality Act, California Public Resources Sections 21000 et seq. ("CEQA"), the Guidelines for Implementation of CEQA, 15 California Code of Regulations Sections 15000 et seq., (the "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code.

These findings are adopted, and incorporated by reference, in the Port Commission Resolution 97-____, dated July 16, 1997.

The Project is described in detail in Article II, below.

Article III of this document sets forth the basis for approval of the Project, and the economic, social and other considerations which support the rejection of the elements of the Alternatives and Variants analyzed in the FEIR which were not incorporated into the Project.

Article IV sets forth findings as to the disposition of each of the mitigation measures proposed in the FEIR. Mitigation measures are grouped in the following categories: (1) Adopted; (2) Adopted as Modified; (3) Under the jurisdiction of other City Agencies; and (4) Under the Jurisdiction of Non-City Agencies. Exhibit 1, attached to these findings, contains the Mitigation Monitoring Program. The full text of the mitigation measures as proposed in the FEIR is set forth in Exhibit 2 attached hereto.

Article V identifies the significant adverse environmental impacts (including the unavoidable significant adverse impacts) of the Project which have not been mitigated to a level of insignificance by the adoption of mitigation measures as provided in Article IV, above.

Article VI contains a Statement of Overriding Considerations, setting forth specific reasons in support of the Port Commission's approval of the Project and its rejection of elements of the Alternatives and Variants not incorporated in the Project.

II. PROJECT DESCRIPTION.

Ballpark Project. The Project consists of a series of approvals that together define the terms under which the Project will occur. It is composed of the following major permits and approvals and related and collateral actions:

Amendments to the General Plan of the City and County of San Francisco;
Proposition M and General Plan consistency determination;
Waterfront Land Use Plan consistency findings;
Amendments to the Rincon Point-South Beach Redevelopment Plan;

Amendments to the Design For Development Agreement;
Conditional Use Authorization;
Owner Participation Agreement;
Lease Disposition and Development Agreement;
Ground Lease;
Caltrans Parcel acquisition;
Public Trust/Burton Act findings;
Street Vacations;
Zoning Administrator approval of interim uses in Mission Bay;
Parcel Map approval;
Demolition and Building Permit issuance;
Soil Remediation Plan/Soil Management Plan acceptance;
Bay Conservation and Development Commission Major Permit;
State Lands Commission Public Trust/Burton Act oversight; and
Army Corps of Engineers Permit

As described in Section IV, only some of the approvals are before the Port Commission at this time.

Detailed Project Description/Relationship to Ballpark FEIR. The following is a description of the uses contemplated by the Project and their relationship to the FEIR. The Project is based primarily on the Project Description contained in the FEIR and incorporates some aspects of the Reduced Project Alternative as discussed below.

The Project site ("Site") is adjacent to the San Francisco Bay, with its address on King Street near the South Beach area of San Francisco. The two-block site is bounded generally by King Street, Second Street, China Basin Channel and Third Street.

The Project would include the following major uses: baseball facilities (used for baseball and other assembly and entertainment uses), retail/commercial uses, assembly and entertainment uses, and parking.

Baseball Facilities. The Project includes an approximately 42,000 seat ballpark. The ballpark facilities would consist of spectator facilities, club houses, locker rooms and related facilities, administrative facilities, press facilities and stadium service facilities. The baseball facilities will be used for approximately 81 Giants' home baseball games per year, plus any post-season games. The ballpark may also be used for events other than baseball, such as music and entertainment presentations or civic gatherings. The FEIR analyzes the environmental impact of all of these uses.

Commercial/Retail Facilities. The Third Street side of the ballpark would include an approximately four-level building containing approximately 136,000 square feet of commercial uses. This space, referred to as the "Pavilion Building," would have two entrances and two public plazas. The Pavilion Building would contain retail and office uses, as well as the Pacific Bell Children's Learning Center/Communications Center. The FEIR analyzes the environmental impact of these uses. The FEIR also includes in the Project Description an

approximately 35,000 square foot restaurant facility in the centerfield area. This facility is not included in the Project, and has been replaced with additional plaza space which will include a concession area and café. The Reduced Project Alternative analyzes the ballpark and a minimal amount of Giants' administrative office space on the Site. It does not include other commercial uses such as the centerfield restaurant. In this respect, the commercial/retail component of the Project is a combination of the uses described in the FEIR Project Description and the Reduced Project Alternative and has been fully analyzed in the FEIR.

Parking. The Project includes approximately 50 parking spaces which would be developed at grade beneath the left-field and centerfield grandstands, plus 25-30 surface spaces proposed for the Pavilion Building. The Project also proposes approximately 5,000 off-site dedicated interim ballpark parking spaces which would be located south of the China Basin Channel on property owned by the Port of San Francisco ("Port") and the Catellus Development Corporation ("Catellus"). The Project Description includes the on-site spaces and the approximately 5,000 dedicated interim ballpark parking spaces off-site. Interim parking will be available for 10 years. After that time, parking could be replaced, removed or supplemented. The proposed parking therefore is analyzed in the FEIR.

III. ALTERNATIVES.

Reasons for Selecting the Project Set Forth in the Ballpark Approvals. As discussed in Section II above, the Project is based primarily on the Project Description analyzed in the FEIR, and, to the extent it does not include the 35,000 square foot centerfield restaurant, incorporates elements from the Reduced Project Alternative. The FEIR analyzed two Alternatives to the Project, including the "No Project" Alternative, and three Variants.

Alternative A is the "No Project" Alternative, which assumes continued play at 3Com Park. It also assumes the short-term continuation of industrial uses, together with longer-term opportunities to develop commercial uses on the Site in accordance with the proposed Waterfront Land Use Plan. Alternative B analyzes the construction of a less intense development, including only the ballpark and Giants' administrative office space. Section C of the Alternatives discussion provides detail about alternative sites which were considered and rejected as infeasible and therefore were not required to be analyzed in the FEIR.

The FEIR also analyzes three variants: Ferry Service Variant, No Dedicated Parking Variant and Increased Dedicated Parking Variant.

In approving the Project, the Port Commission has carefully considered the attributes and environmental effects of the Project and the Alternatives and Variants discussed in the FEIR. This consideration, along with the reports from staff, and considerable public testimony, has resulted in the Project. The Project represents the combination of features which, in the opinion of the Port Commission, most closely achieves the Project Sponsor's objectives and all of the City's objectives as follows:

Project Sponsor's Objectives. The FEIR includes several project objectives identified by the project sponsor, China Basin Ballpark Company ("Project Sponsor") as

essential to the Project's success. Several of these objectives relate to the location of the Site; these are addressed under Section III.B.3 below. The remaining objectives are as follows: A ballpark of approximately 42,000 seats and associated facilities meeting major league standards for size and quality of improvements expected in modern ballparks; the dedication of 5,000-7,000 parking spaces for exclusive use by the ballpark; space for the construction of an ancillary building to include a children's learning center and other uses to be sponsored by Pacific Bell; the use of seating capacity for occasional major civic and entertainment events; ability to convert the ballpark's infield area during the off-season to a small, enclosed amphitheater with a capacity of 5,000-15,000 seats for music, concerts and entertainment; and creation of a ballpark that will generate sufficient interest from fans and associated revenue sources to support private financing.

The Project as proposed includes approximately 5,000 dedicated, interim parking spaces, provides the ability to hold special events, including events in an enclosed amphitheater, and incorporates a variety of commercial and retail uses consistent with Project Sponsor's remaining objectives.

City's and Port's Objectives.

In addition to the Project Sponsor's objectives, the City and County of San Francisco has identified, and the Port Commission acknowledges and identifies, the following additional objectives for the development of this waterfront site:

Proposition B. One of the City's primary objectives is to comply with the directives of Proposition B, as approved by the voters of the City and County of San Francisco. Proposition B amended Part II, Chapter II of the San Francisco Municipal Code ("Planning Code"), establishing zoning and development standards for the Site. It also directed the City and County of San Francisco to adopt conforming amendments to its General Plan and other relevant plans and codes and to request and apply for conforming amendments to all applicable state and regional plans and regulations.

Proposition B provides not only for the ballpark, but for assembly and entertainment uses with associated parking, and various uses accessory to or related to ballpark and assembly and entertainment uses, including sports clubs, restaurants and retail shops. The Project analyzes a mixed-use project including a ballpark, assembly and entertainment uses, commercial/retail uses and parking, consistent with Proposition B.

Rincon Point - South Beach Redevelopment Plan. As described in the Report on the Redevelopment Plan Amendment for the Rincon Point - South Beach Redevelopment Project Area proposed for adoption by the Redevelopment Agency Commission on June 26, 1997 (the "Board Report"), the Project also assists in facilitating the objectives of the Rincon Point - South Beach Redevelopment Plan (the "Plan"). Rincon Point - South Beach is a 115 acre redevelopment project composed of the Rincon Point Subarea and the South Beach Subarea. The purpose of the Plan is to transform this blighted area into a new mixed-use waterfront neighborhood incorporating rehabilitation and new development. As discussed in the Board Report, the Project will further the Redevelopment Agency's ability to carry out the purposes of the Plan by the following:

1. Eliminating and preventing the spread of blight and deterioration by reversing the lack of private investment in the area, by eliminating deteriorated, obsolete and dysfunctional buildings and other improvements, by providing solutions to eliminate groundwater and soil contamination and the presence of hazardous materials as barriers to the successful and feasible redevelopment of the area, and by reversing the cycle of abnormally high business vacancies and economically infeasible lease rates;

2. Encouraging and promoting new and continuing private sector investment within the Project area and the surrounding areas to prevent the loss of, and to facilitate the capture of, commercial activity;

3. Achieving an environment reflecting high quality architectural, landscape, and urban design and land use principles;

4. Providing for increased sales, business license and other fees, taxes and revenues to the City and County of San Francisco;

5. Creating local job opportunities and preserving the existing employment base; and

6. Replanning, redesigning and redeveloping deteriorated areas.

The Project is a major waterfront recreational and commercial use, which is consistent with the mixed-use nature of the area and contributes to the variety of activities on the waterfront, together with the existing South Beach Harbor and South Beach Park. The baseball facilities assist in fulfilling the Redevelopment Agency's objectives, but the retail, entertainment and assembly and commercial components are also important in that they provide for additional uses of the facility year-round when baseball events do not occur. This ensures additional opportunities for use of the waterfront, and contributes further to the Redevelopment Agency's economic revitalization goals, including additional employment opportunities and fees, taxes and revenues available for re-investment in the Plan Area.

The Project design has been subject to significant public scrutiny, and has been revised in response to public comment. It includes high quality architectural, landscape, and urban design and land use principles which are subject to review by the Planning Commission, as well as the Redevelopment Agency and the Port.

Waterfront Public Access. The Project not only brings people to the waterfront, but also provides public access where no such access currently exists. The Port's Waterfront Land Use Plan calls for provision of pedestrian walkway or "PortWalk" public access improvements to connect South Beach Harbor and the proposed South Beach Park with waterside access to the Third Street Bridge, providing a link with the future Mission Bay open space network. The Project incorporates an approximately 22-foot wide pedestrian walkway or "Portwalk" along its right-field line which will connect to two public plazas on either end of the Site and connect with The Embarcadero Promenade ("Herb Caen Way"). Pedestrians walking along the PortWalk will be able to see through the pedestrian arcade which forms the right field wall by looking through a series of archways which provide a direct view onto the playing field. In addition to public access along the PortWalk and plazas, the public will be afforded the opportunity for views of

the Bay from the café and concession area on the second level of the ballpark. The Reduced Project Alternative would also include waterfront public access, but would not provide the same opportunities for year-round use of non-baseball facilities on the Site. These additional facilities are an important attraction, designed to draw additional people to the waterfront.

Transit Accessibility. In consideration of the excellent transportation access to this site (from I-280 via King Street and from Downtown via the MUNI Metro extension), one of the Port's objectives for the site is that it provide activities that have a city-wide and regional draw. The Project achieves transportation goals for the Project itself as defined in the Project Sponsor's objectives, for the surrounding areas, and for the City and the region. The Project is located at the Site in large part because both the Project Sponsor and the City desired it to be readily accessible by public transportation, including regional transit, including MUNI buses and the MUNI MMX service, CalTrain, Samtrans, Golden Gate Transit, BART, and AC Transit. The Project achieves the appropriate balance in the amount of interim dedicated parking it provides, taking into consideration the City's transit-first policy. The 5,000 interim dedicated spaces are proposed by the Project Sponsor to allow some opportunity for parking in the area, while encouraging transit, pedestrian, bicycle and other non-single occupant vehicle travel to the ballpark.

Environmental Clean-Up. The Site is characterized by groundwater and soil contamination, and includes a number of building which contain hazardous materials. The Project includes a comprehensive environmental plan, which addresses groundwater monitoring, encapsulation of site soils, and identifies procedures for handling, removal and disposal of hazardous materials contained in buildings on the Site.

Alternatives Rejected and Reasons for Rejection.

Alternative A. Alternative A, the "No Project" Alternative, would not be desirable or meet City and Port goals. The situation would amount to a continuation of the existing conditions, which is characterized by underused buildings, environmental contamination and unacceptable rates of vacancy and turnover. The current uses do not provide the opportunity to alleviate these conditions, and do not present any opportunity for public access. In addition, the No Project Alternative would not allow the City to meet the important objective of carrying out the mandate of the voters pursuant to Proposition B.

The No Project Alternative also contemplates potential long-term commercial development consistent with the proposed Waterfront Land Use Plan. Such development is speculative at this time and therefore would not necessarily meet all of the specific objectives of the City or the Project Sponsor described above. The "No Project" Alternative is rejected in favor of the Project and is found infeasible for the following environmental, economic and social reasons:

a. The No Project Alternative does not provide a means for carrying out the mandate of the voters pursuant to Proposition B.

b. The "No Project" Alternative does not meet any of the Project Sponsor's objectives or the objectives of the Port and City and County of San Francisco.

c. The "No Project" Alternative fails to alleviate the blighted condition of the Site and the Plan Area.

d. The "No Project Alternative" does not provide opportunities for new, significant sources of jobs, fees, taxes and revenues.

e. The "No Project" Alternative fails to provide increased opportunities for public access along the waterfront.

f. The "No Project" Alternative does not provide for a comprehensive program of hazardous waste remediation.

Alternative B. Alternative B does not contain any opportunities for retail or commercial uses, with the exception of the Giants' administrative offices. This Alternative is accepted to the extent that it includes elimination of the proposed large restaurant space in the centerfield area. With the exception of elimination of this restaurant space, Alternative B is rejected and found infeasible for the following environmental, economic and social reasons:

a. Alternative B does not provide a means for carrying out the mandate of the voters pursuant to Proposition B in that it does not include the retail and other commercial uses approved pursuant to Proposition B.

b. Alternative B does not meet the majority of the Project Sponsor's objectives, particularly those related to providing space for Pacific Bell facilities and providing other improvements expected in modern ballparks.

c. Alternative B does not provide the opportunity for commercial and other retail uses, which are identified by the Project Sponsor and the City as an important objective.

d. Alternative B would not include the additional sources of employment projected to be provided by the commercial/retail opportunities.

e. Alternative B would not include the additional fees, taxes and revenue projected to be provided by the commercial/retail opportunities.

f. Alternative B would not encourage year-round use of the facility, and in turn would not maximize opportunities to draw the public to the waterfront.

Alternative Sites Considered and Rejected. The Alternatives Section of the FEIR contains a discussion of alternative sites which were considered and rejected as infeasible by the Project Sponsor prior to preparation of the DEIR. That discussion explains in detail the Project Sponsor's efforts to identify a suitable location for a ballpark in the City and County of San Francisco over the last four decades. As discussed in that section, based upon an extensive review of alternative sites, the Site is the only location which meets the Project Sponsor's

objectives and provides an accessible, available and desirable site for a new ballpark. It is also the only location consistent with the directive of Proposition B.

Variant 1 (Ferry Variant). Under this Variant, the Project would include construction of a passenger ferry landing on the north side of the China Basin Channel. The ferry landing would consist of two berths connected by a 10-foot wide walkway fixed to a floating deck 30 feet wide by 360 feet long. The floating dock would be moored parallel to the edge of Pier 46B on the north side of China Basin Channel, adjacent to the new ballpark. Ferry service to the ballpark is proposed from each of the existing ferry terminals around San Francisco Bay. Variant 1 is rejected as infeasible for the following environmental, economic and social reasons:

a. Variant 1 would require the Project Sponsor to construct and operate a substantial transportation enterprise. Ferry facility construction and ferry service operation is a complex matter, involving industry-specific expertise that the Project Sponsor does not possess, particularly in light of the less than continuous frequency of events at the Site. In addition, this Variant is based on a conceptual plan only, and there are significant economic, technological and regulatory barriers that would need to be overcome before ferry service could be put in place. The feasibility of implementation is therefore speculative.

b. Variant 1 is not a substantial component of the transportation mitigation program and would not in and of itself reduce any potentially significant impacts to a level of insignificance. Ferry service is one component of a comprehensive system of improvements and operational measures designed to address transportation-related issues related to the Project. The proposed ferry service, once implemented, would be expected to result in some net reduction in the number of single-occupant vehicle trips to the Site. The Port Commission declines to adopt this Variant in light of its current infeasibility together with its relatively minor contribution to reduction of traffic impacts.

As discussed in Section IV below, however, the Port Commission adopts herein as a mitigation measure a modified version of Variant 1. The modified measure would require the Project Sponsor to participate in the public-private partnership of Bay Area governmental agencies and ferry service providers and to make good-faith efforts to assist in implementing feasible study recommendations related to ballpark ferry service.

Variant 2 (No Dedicated Parking Variant). The No Dedicated Parking Variant would be similar to the Project, but it would not include the approximately 5,000 interim dedicated parking spaces south of the Channel. Variant 2 is rejected as infeasible for the following environmental, economic and social reasons:

a. Variant 2 does not meet the Project Sponsor's objective related to the provision of dedicated ballpark parking.

b. Variant 2 does not provide the opportunity for an interim pilot program to determine the precise amount of permanent parking that is appropriate for the Project. If, at the

end of the interim period, provision of 5,000 parking spaces is not warranted, the Project could be modified to resemble Variant 2.

Variant 3 (Increased Parking Variant). The Increased Dedicated Parking Variant would add approximately 1,800 dedicated parking spaces on Port-owned land, including Pier 50, to the Project. The total number of dedicated parking spaces available under this Variant would be about 6,800 spaces. Variant 3 is rejected as infeasible for the following environmental, economic and social reasons:

a. Variant 3 provides a level of parking greater than contemplated in Proposition B and would not be as effective in addressing the City's "transit first" policy.

b. Variant 3 proposes parking on Pier 50, which is being considered by the Port for other near-term uses. In addition, the Bay Conservation and Development Commission ("BCDC") and the Port generally discourage the use of piers for parking, except in limited circumstances.

c. Variant 3 does not provide the opportunity for an interim pilot program to determine the precise amount of permanent parking that is appropriate for the Project. If, at the end of the interim period, provision of more than 5,000 parking spaces is warranted, the Project could be modified to resemble Variant 3.

IV. MITIGATION MEASURES.

The findings in this section concern mitigation measures set forth in the FEIR. These findings fall into three categories: (1) a recitation of mitigation measures adopted by the Port Commission; (2) a recitation of mitigation measures adopted by the Port Commission as modified; (3) a recitation of mitigation measures proposed for adoption by other City agencies; and (4) a recitation of mitigation measures proposed in the FEIR and recommended by the Port Commission for adoption which are enforceable by agencies other than City agencies. None of the mitigation measures is rejected completely.

All of the mitigation measures discussed in the FEIR are coded and attached hereto as Exhibit 2. In the text of these findings, mitigation measures adopted by the Port Commission are referenced by the number and topic in Exhibit 2. In addition, Appendix A to Exhibit 2 contains various improvement measures, proposed in the FEIR, which are not mitigation measures but which may be considered by decisionmakers in connection with the subsequent actions described below. Mitigation measures within the jurisdiction of other agencies are similarly referenced together with an indication of the appropriate jurisdiction. Mitigation measures are organized by subject matter in the same order that those subjects appear in the FEIR.

The Port Commission recently adopted a Waterfront Land Use Plan. With the approval of the Waterfront Land Use Plan, the Port Commission adopted a number of mitigation measures to be applied to Port projects, as applicable, to avoid significant environmental effects. Those mitigation measures have been reviewed and, where applicable, have been incorporated in the DDA or the Lease or will be addressed in the Port's building permit process, as appropriate.

The approvals before the Port Commission include: (1) Burton Act Findings; (2) Lease Disposition and Development Agreement ("DDA"); (3) Ground Lease ("Lease"); (4) Purchase Agreement for the Caltrans Parcel; (5) Non-Relocation Agreement and Guaranty; (6) Ratification of General Plan and Redevelopment Plan Amendments; and (7) Approval of the vacation of certain portions of Berry Street and Second Street. The primary documents which will govern the construction and the use and operation of the ballpark are the DDA and the Lease, respectively, which are now before the Port Commission for consideration. Attachments to the DDA and the Lease contain lists of mitigation measures as well as other improvement measures imposed by the Port on the Project.

Some of the specific mitigation measures, in particular the transportation mitigation measures, may be refined at a later date. The mitigation measures appear to be feasible at this time, based upon preliminary cost estimates compiled by the Mayor's Office based on consultation with various City departments and identification of possible sources or revenue, or due to an indication that the Project Sponsor is willing to undertake the mitigation measure at this time. Unless otherwise indicated, the Port Commission believes that the measures it proposes for adoption or adoption as modified can and should be carried out by the named agency at the appropriate time.

- Mitigation Measures Adopted By the Port Commission. The following measures in the FEIR found by the Port Commission to mitigate, reduce or avoid significant environmental effects are hereby adopted, and have been incorporated into the Project:

A. Visual Quality and Lighting. No applicable measures.

B. Transportation and Circulation.

B1. Ballpark Transportation Coordination Committee. Port staff may be called on to participate in the Ballpark Transportation Coordination Committee on an on-going basis, and/or participate in decisions on certain issues. In addition, to the extent that the Project Sponsor will be called upon to participate, the requirement is set forth in the Lease.

B2. Transportation Management Plan. Port staff may be called on to participate in development of the Transportation Management Plan, and/or to participate in decisions on certain issues. In addition, to the extent that the Project Sponsor will be called upon to participate, the requirement is set forth in the Lease.

B3. Traffic Routing Plan. Port staff may be called on to participate in development, refinement and implementation of the Traffic Routing Plan on an on-going basis, and/or participate in decisions on certain issues. In addition, to the extent that the Project Sponsor will be called upon to participate, the requirement is set forth in the Lease. Two provisions within this measure have been modified, as set forth below.

B7. Transit incentive program.

B8. Transportation demand management.

B9. Public information/outreach programs.

B10. Motorist information system.

B11. Special events.

B15. This measure is adopted to the extent that the Giants will put down covering for the pedestrian use of Lefty O'Doul Bridge.

C. Noise. No applicable measures.

D. Air Quality.

D1. Construction PM_{10}.

E. Seismicity.

E1. Emergency evacuation planning.

F. Water Quality and Aquatic Ecology.

F1. Shallow-draft tugboats for turbidity minimization.

F3. Silt curtain for sub-marine pile-driving and bulkhead repair.

F4. Debris control during bulkhead repair.

F5. Prevention of toxic spills from Pier 46B discharge pipe.

F6. Enclosure of zinc application area.

F7. Litter control. The Port Commission adopts this measure to the extent that the Giants will be required to implement this mitigation measure for all areas except Lefty O'Doul and Peter Maloney Bridges. The provisions of this measure which apply to parking areas south of the Channel are also within the jurisdiction of the Zoning Administrator. The Port, as well as DPW and the Zoning Administrator, will share responsibility for this measure.

G. Cultural Resources.

G1. Subsurface resources.

- Mitigation Measures Adopted by the Port Commission as Modified. The following measures in the FEIR found by the Port Commission to mitigate, reduce or avoid

significant environmental effects are hereby adopted as modified, and have been incorporated into the Project:

B. Transportation and Circulation.

B3. Traffic Routing Plan. Two provisions of this measure are modified for clarification purposes only.

(1) On page 4 of Exhibit 2 to this Attachment A, the second sentence of the second paragraph is modified to read as follows: **Charter buses would be directed to approach this location from Fourth Street from the north and Third Street from the south and to avoid the residential area east of Second Street and south of Bryant Street**.

(2) On page 4 of Exhibit 2 to this Attachment A, the first sentence of the last paragraph is modified to read as follows: **Place barriers, chains and a *No Ballpark Traffic* sign at the east side of Brannan/Second Streets, west side of Brannan/Embarcadero, west side of South Park Avenue/Second Street and the east side of South Park Avenue/Third Street to restrict through traffic in residential areas.**

B5. Ferry service. This measure provides that ferry service will be provided for all ballgames for up to five boats. It further provides that the Project Sponsor will participate in the public-private partnership of major Bay Area governmental agencies and ferry service providers and would make good-faith efforts to assist in implementing feasible study recommendations related to ballpark ferry service. This measure is within the jurisdiction of various City agencies and other regional agencies.

To the extent that this measure requires the Project Sponsor to provide ferry service, it is rejected as infeasible for the same reasons as Variant 1 was rejected, and is modified accordingly and is adopted to the extent that it requires the Project Sponsor to participate in the regional ferry service study, and make good-faith efforts to assist in implementing feasible study recommendations related to ballpark ferry service.

B16. Pedestrian walkway. Measure B16, relating to the creation of a pedestrian/bicycle connection from the Project Site through Seventh Street located either on Berry Street or along the north edge of China Basin Channel, is a measure most appropriately considered in the context of the traffic routing plan described in mitigation measure B3. Moreover, the northern edge of China Basin Channel is in private ownership and, in the absence of the exercise of condemnation authority, there is no current jurisdiction to implement that portion of the mitigation measure. To the extent that this measure requires utilization of the China Basin Channel or Berry Street without reference to the traffic routing plan, this measure is modified accordingly and is adopted only as a measure to be considered in connection with the traffic routing plan described in mitigation measure B3.

C. Noise.

C1. Concert noise. Measure C1 is revised to read as follows:

All concerts at the ballpark featuring live amplified music shall comply with all applicable laws, including but not limited to the San Francisco Police Code. With the exception of five (5) concerts per year, the following additional restrictions shall apply: project sponsor shall perform a sound test, and on the basis of this test, establish a limit on music noise in the ballpark that would result in increases in exterior noise at representative residential receptors in the adjoining neighborhood of no greater than 3 decibels above the then-existing ambient hourly average (L_{eq}) noise levels at those receptor locations.

C2. Pile-driving noise. The first sentence of this measure provides that the Project Sponsor shall consult with the Department of Public Works to determine the times when pile driving would cause the least disturbance to neighboring uses. This measure is clarified to provide that the Project Sponsor shall consult with the Port, rather than the Department of Public Works, to determine the times when pile driving would cause the least disturbance to neighboring uses. The Port may elect to consult with the Department of Public Works on such construction issues, but the Port will be the responsible agency for determining the appropriate times for pile driving activities.

F. Water Quality and Aquatic Ecology.

F2. Monitoring of Pacific herring spawning. This measure provides that if tugboats are in use during the peak spawning season from December 1 to March 1, the Project Sponsor must hire a professional fisheries biologist to monitor the project site daily at any time when tugboats are in use. In addition, if the biologist detects herring spawning in the vicinity, tugboat activities must be suspended for a minimum of 14 days or until the biologist has determined that the hatch is complete and larval herring have left the site. This mitigation measure is modified to provide that these measures shall also apply to all pile driving activities within Bay waters.

- Mitigation Measures Within the Jurisdiction of Another City Agency. The Port Commission finds that the following mitigation measures as they appear in the FEIR fall within the jurisdiction of other City Agencies. These measures can and should be adopted by other City Agencies. The Secretary to the Port Commission shall send copies of these measures to the appropriate City agencies.

A. Visual Quality and Lighting.

A1. Parking area lighting. This measure is within the jurisdiction of the Zoning Administrator. The Port Commission recommends that the Zoning Administrator incorporate this mitigation measure as part of his authorization of interim parking.

B. Transportation and Circulation.

B1. Ballpark Transportation Coordination Committee. This measure is also within the jurisdiction of the Department of Parking and Traffic ("DPT"), MUNI, CalTrain, BART and the Police Department. The Port Commission recommends that these departments participate in this Committee.

B2. Transportation Management Plan. This measure is also within the jurisdiction of DPT, MUNI, CalTrain, BART and the Police Department. The Port Commission recommends that these departments participate in this measure.

B3. Traffic Routing Plan. This measure is also within the jurisdiction of DPT, MUNI, CalTrain, BART and the Police Department. The Port Commission recommends that these departments participate in this measure.

B4. Additional transit services. This measure is within the jurisdiction of MUNI. The Port Commission recommends that MUNI provide service at four cars per train serving the ballpark on a regular schedule, as suggested in this measure.

B5. Ferry service. This measure is adopted as modified, but will required input from other City departments, and possibly other regional agencies. The Port recommends that other City departments participate in this measure.

B12. Facilitate and accommodate MUNI Metro expansion. The measures described in B12A are within the jurisdiction of MUNI and DPT. The measures described in B12B and B12C are within the jurisdiction of MUNI, DPT and the Department of Public Works ("DPW"). The Port Commission recommends that the applicable agency implement each of these measures.

B13. Transit priority. This measure is within the jurisdiction of DPT, DPW, MUNI and the Police Department. The Port Commission recommends that these agencies implement this measure.

B14. Bus bridge. This measure is within the jurisdiction of MUNI and DPT. The Port Commission recommends implementation of this measure.

B15 and B17. Pedestrian mitigation measures. These measures are within the jurisdiction of MUNI, DPW and DPT. The Port Commission recommends implementation of these measures.

B16. Pedestrian walkway. This measure, as modified above, is also within the jurisdiction of DPT and DPW. The Port Commission recommends implementation of this measure as modified.

F. Water Quality and Aquatic Ecology

F.7 Litter Control. Portions of this mitigation which apply to the parking areas south of the Channel are in the jurisdiction of the Zoning Administrator. In addition, DPW and the Port will share responsibility for implementation of certain portions of this measure, which include provision of trash receptacles on Lefty O'Doul and Peter Maloney Bridges.

F.8. Capture of storm water on South-of-Channel parking areas. This measure is within the jurisdiction of the Zoning Administrator. The Port Commission recommends that the Zoning Administrator incorporate this mitigation measure as part of his authorization of interim parking.

G. Cultural Resources.

G1. Subsurface Resources. This measure is also within the jurisdiction of the Planning Department. The Port Commission recommends that the Planning Department assist in the implementation of this measure.

- Mitigation Measures Within the Jurisdiction of a Non-City Agency. The Port Commission finds that the following mitigation measures as they appear in the FEIR fall within the jurisdiction of other than City agencies. These measures should be adopted by such agencies if they are feasible. The Secretary to the Port Commission shall send copies of these measures to the appropriate non-City agencies.

B. Transportation and Circulation.

B1. Ballpark Transportation Coordinating Committee. This measure is primarily within the jurisdiction of various City agencies and the Project Sponsor, but also contemplates participation by CalTrain, BART, and the ferry service operators. The Port Commission recommends that CalTrain, BART and the ferry service operators, as applicable, participate in the BTCC.

B3. Traffic Routing Plan. Portions of this measure are within the jurisdiction of CalTrans, if directional signs will be installed on the freeway. The Port Commission recommends implementation of this measure by CalTrans.

B6. CalTrain service. This measure is within the jurisdiction and control of CalTrain. The Port Commission recommends implementation of this measure by CalTrain.

- Adoption of a Mitigation Monitoring Program. The Port Commission hereby adopts a Mitigation Monitoring Program as required by Section 21081.6 of the Public Resources Code. This Mitigation Monitoring Program is attached hereto as Exhibit 1 and incorporated herein by reference. The purpose of this Program is to determine the stage at which each of the adopted mitigation measures must be imposed in order to ensure that the measure is carried out by the responsible official or entity, or, if the obligation lies with the Project Sponsor, that the City enforces the obligation.

V. SIGNIFICANT ENVIRONMENTAL IMPACTS.

The Project includes many aspects and features that reduce or eliminate environmental impacts which could be otherwise significant. Some significant unavoidable impacts remain and are listed below:

The Project would cause extensive queuing to occur on freeway on-ramps after weekday afternoon games and before weekday night games. Queuing would be increased further by cumulative development in the Project vicinity. Freeway on-ramps affected by the Project include eastbound freeway on-ramps to I-80 ("I-80")/Bay Bridge and westbound freeway on-ramps to I-80/U.S. Highway 101 at Fourth Street and Harrison Street. Additional on-ramps affected by the Project plus cumulative development include ramps westbound at Harrison and First Streets (to I-80 eastbound) and southbound on Fifth Street (to I-80 eastbound). As set forth in the FEIR, no specific feasible improvements are available to address the impacts of ballpark traffic on freeways and freeway ramps, except for transit-related mitigation measures and travel demand management measures that would reduce but not eliminate the impacts of ballpark traffic on freeway on- and off-ramps.

The levels of service ("LOS") for some intersections in the Project vicinity would deteriorate to LOS E and F, signifying excessive delay (60 seconds or more) conditions. LOS of D (with delay in the range of 25 to 40 seconds) is the minimum acceptable operating condition for urban San Francisco streets. LOS E and F represent unacceptable operating conditions. No specific, feasible mitigation measures are available to the Project to improve all affected intersections to accepted levels of service beyond the measures already included in the Project.

Cumulative impacts on local transit systems include incremental increases and passenger loads on existing MUNI lines, and demand for new shuttle services to the ballpark and other South of Market area destinations. No specific, feasible mitigation measures are available to the Project to reduce to a level of insignificance these cumulative impacts on local transit systems.

Traffic noise impacts identified in the 2015 UCSF-Mission Bay Cumulative Scenario would cause a substantial increase in traffic noise in the Mariposa/De Haro Street area. The transportation mitigation discussion includes a proposed detour for non-ballpark traffic that would route non-ballpark traffic from Third Street west to Seventh Street between King and Mariposa Streets before and after ballgames. At Seventh and Townsend Streets, the detoured traffic would increase 8-hour CO concentrations to about 9.9 ppm, a new violation of eight-hour state and federal CO standards. No other location study would exceed the standards. No

specific, feasible mitigation measures are available to the Project to reduce to a level of insignificance the air quality impact.

Violations of the state one-hour and state/federal eight-hour carbon monoxide (CO) standards are anticipated at almost all of the study intersection receptors in the year 2000. By the year 2015, one-hour and eight-hour CO concentrations would decline at the modeled receptors at the study intersections because of increasingly stringent vehicular CO emission controls expected to be implemented over the next 20 years, and no violations of the state and or federal CO standards are anticipated. Transportation mitigation measures encouraging regional transit would reduce, but would not completely eliminate, vehicular air pollutant emissions below a level of significance. There are no specific, feasible mitigation measures available to the Project to reduce to a level of insignificance these air quality impacts.

The FEIR states that nitrogen oxide (NO_x) emissions attributable to the combination of ballpark traffic and traffic associated with other on-site uses in year 2000 of 101 pounds per day (lb/day) and in year 2015 of 82 lb/day would exceed the Bay Area Air Quality Management District's project threshold of 80 lb/day. Because the Project does not include the restaurant, the Project does not exceed the BAAQMD threshold in the year 2015 and therefore the significant, unavoidable NO_x impact for the year 2015 and beyond is eliminated.

The significant, unavoidable impacts listed in the FEIR and recited above assume some implementation by other City agencies and by agencies other than the City of the mitigation measures identified in the FEIR to reduce potentially significant impacts. The Port Commission has made a determination that these measures can and should be implemented by the other agencies. However, to the extent that these measures are not adopted, one or more of the following additional significant impacts could occur, depending on the nature of the mitigation measure(s) that is/are not implemented: additional and increased impacts on visual quality and lighting, the transportation and circulation system (including freeways and freeway ramps, arterials and intersections, impacts on local and regional transit systems and pedestrian circulation), water quality and aquatic ecology, and cultural resources. There are no specific, feasible mitigation measures available to the Project, other than those identified in the FEIR, to reduce these impacts to a level of insignificance.

VI. STATEMENT OF OVERRIDING CONSIDERATIONS.

Notwithstanding the significant effects noted above, pursuant to CEQA Section 21081(b), the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code, the Port Commission finds, after considering the FEIR, that specific overriding economic, legal, social and other considerations, as set forth below, outweigh the identified significant effects on the environment. In addition, the Port Commission finds that those Project Alternatives, Variants and mitigation measures either partially or totally rejected, are also rejected for the following specific economic, social or other considerations, in and of themselves, in addition to the specific reasons discussed in Articles III and IV above.

1. The Project provides the City with the ability to carry out the mandate of Proposition B by providing for a ballpark and related retail, commercial, assembly and entertainment uses at the Site.

2. The Project enables the City to achieve an implementable mixed-use development plan which will assist in transforming an under-utilized and under-developed industrial area characterized by deteriorated, obsolete or dysfunctional buildings to a vibrant, mixed-use waterfront development.

3. The Project provides significant public access to the waterfront where no such access currently exists, including a connection to existing public access on adjacent property. The Project incorporates an approximately 22-foot wide waterfront promenade along its right-field line which will connect two public plazas on either end of the Site. The Project provides public access both for ballgames and on non-game days. The Project enhances public enjoyment of and access to the San Francisco Bay and the Port's property by bringing many people of all ages to a place of public assembly and recreation adjacent to the shoreline. The Project Sponsor will construct public access improvements in connection with the development of the ballpark, including an extension of the Portwalk. The ballpark seating area and public access improvements will provide views of the Bay, the Channel, the Bay Bridge and the rest of the waterfront. The Project provides an attraction for many visitors to come to the waterfront and promotes opportunities for restaurants, entertainment and Bay-oriented commercial recreation activities in the surrounding area before and after baseball games and other permitted events.

4. Although the Project will have significant, unavoidable adverse impacts on certain components of the transportation system, it is located at an extremely transit-accessible site, and presents new opportunities to increase transit ridership and promote the City's transit-first policy and therefore achieves transportation goals for the Project itself, for the surrounding areas, and for the City and the region.

5. The Project provides a hazardous materials investigation and remediation program at an accelerated and coordinated level. The Plan Area is characterized by groundwater and soil contamination, and includes a number of buildings which contain hazardous materials. The Project includes a comprehensive environmental plan, which addresses groundwater monitoring and identifies procedures for handling, removal and disposal of hazardous materials contained in buildings on the Site.

6. The Project provides potential for economic revitalization of the Plan Area, such as a substantial generation of employment opportunities and increased sales, business license and other fees, taxes and revenues. The Project provides construction and permanent job opportunities for San Franciscans. The Project Sponsor estimates that the project will generate over 3,500 construction trade jobs and result in the retention in San Francisco of thousands of permanent jobs in the ballpark and in related businesses.

7. The Project will provide substantial new tax increment, 20% of which must by law be set aside for the production of affordable housing. This money will help to further

promote the goals of the Redevelopment Plan Area by providing additional sources of funding for affordable housing.

8. The Project includes a comprehensive system for transportation planning, including the BTCC, the TMP and the Transportation Routing Plan, which will ensure that traffic impacts are minimized to the greatest extent possible.

9. The Project will be constructed in accordance with the most contemporary seismic engineering standards, and will include a comprehensive Emergency Response Plan for its operations.

10. The impacts of the Project are based upon a conservative analysis which assumes, among other things, a sellout game. In addition, the impacts are of a special event nature, and will occur on an occasional and intermittent, rather than continual, basis. The Port Commission has taken these factors into account and believes it is appropriate to consider the frequency and duration of impacts in its weighing of Project impacts and benefits.

11. The City will consider inclusion of measures to protect and conserve existing housing, neighborhood parking and neighborhood character, and to minimize intrusion of ballpark traffic and related parked cars into residential areas. The City will propose public improvements over time such as traffic control and signal improvements, programmable parking meters, preferential parking programs, street resurfacing and restriping, improvements to sidewalks, new street lamps, litter receptacles and signage that will maintain the attractiveness and livability of adjacent neighborhoods.

12. The Project furthers the goals of the Port's Waterfront Land Use Plan.

Having considered these Project benefits, the Port Commission finds that the benefits of the Project outweigh the unavoidable adverse environmental effects, and that the adverse environmental effects are therefore acceptable.

EXHIBIT 1

PACIFIC BELL PARK - MITIGATION MONITORING AND REPORTING PROGRAM

Introduction

Assembly Bill (AB) 3180 was enacted by the State Legislature to provide a mechanism to ensure that mitigation measures adopted through the California Environmental Quality Act (CEQA) process are implemented in a timely manner and in accordance with the terms of project approval. Under AB 3180, local agencies are required to adopt a monitoring or reporting program "designed to ensure compliance during project implementation."

The Pacific Bell Park Mitigation Monitoring Program ("Program"), pursuant to AB 3180 and CEQA Section 21081.6, provides the basic framework through which adopted mitigation measures will be monitored to ensure implementation. Responsibility for implementation of various measures falls on numerous City agencies, including: the Port of San Francisco (Port), San Francisco Redevelopment Agency (Agency), Department of Public Works (DPW), Department of Parking and Traffic (DPT), the Department of Public Health (DPH) and the San Francisco Municipal Railway (MUNI), other agencies including CalTrain, Bay Area Rapid Transit (BART), the Bay Area Air Quality Management District (BAAQMD), and the U.S. Coast Guard, as well as the project sponsor (Giants).

The following table identifies, for each mitigation measure included in the Final Environmental Impact Report (FEIR), the measure, the responsible agency, the time frame for implementation, any performance criteria specific to that measure or measures, and any other specific requirements. The full text of each measure is not provided in the Program, but rather is included in Exhibit 2 to Attachment A of the Resolution to which this document is attached. Exhibit 2 also contains Appendix A, which includes measures that are not mitigation measures, but which, if adopted, would address non-significant impacts of the Project.

The implementation of mitigation measures, as well as the mitigation monitoring action and schedule, are tied to the Pacific Bell Park project ("project") development and approval process.

While this Program generally outlines the actions, responsibilities, and schedule for mitigation monitoring, it does not attempt to specify the detailed procedures to be used to undertake or verify implementation (e.g., interactions between the Agency and the City, use of private consultants, approval of plans, site inspections, etc.). Also, decision-makers may adopt other conditions of approval, independent of this mitigation monitoring program.

EXHIBIT 1 - PACIFIC BELL PARK MITIGATION MONITORING AND REPORTING PROGRAM

MEASURE/MITIGATION	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING ACTIONS / SCHEDULE	MONITORING RESPONSIBILITY
A. VISUAL QUALITY and LIGHTING				
A1. PARKING AREA LIGHTING				
Design parking area lighting to minimize off-site glare. The design could include 45-degree cutoff angles on light fixtures to focus light within the site, and specifications that spill lighting from parking areas would be 0.25 foot-candle or less at 5 ft. from the property line of the parking areas.	Project sponsor	• Submit designs and specifications to Zoning Administrator prior to erection of lighting. • Conduct initial tests to verify compliance with specifications. • Provide test results to the Zoning Administrator.	• Review designs and specifications prior to erection of lighting. • Review test results provided by project sponsor.	Zoning Administrator, Port

MEASURE/MITIGATION	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING ACTIONS / SCHEDULE	MONITORING RESPONSIBILITY
B. TRANSPORTATION and CIRCULATION				
B1. BALLPARK TRANSPORTATION COORDINATION COMMITTEE (BTCC)				
Form a Ballpark Transportation Coordinating Committee (BTCC) to implement and monitor the operation of the transportation mitigation program. This committee should include, for example, a transportation coordinator from the Giants staff, and representatives from the Department of Parking and Traffic (DPT), the Department of City Planning, the Police Department, MUNI, CalTrain, BART, and the ferry service operators. The committee also could include representatives of neighborhood or special interest groups, and property owners. Take care to avoid creating such a large committee that appropriate actions cannot be taken quickly.	Project sponsor, Planning Department (DCP), Port of San Francisco (Port), Redevelopment Agency, Department of Parking and Traffic (DPT), Police Department, MUNI, Caltrans, BART, ferry service operators	Form BTCC as soon as feasible following obtaining project approvals.	• Oversee establishment of Committee and membership. • Ensure that operating procedures and regular meeting times are established.	Port
B2. TRANSPORTATION MANAGEMENT PLAN (TMP)				
The primary initial responsibility of the BTCC shall be to refine and adopt a Transportation Management Plan (TMP), based on a draft submitted by the project sponsor. The BTCC shall also have the responsibility of implementing the TMP. The ultimate objective of the TMP would be the efficient movement of people to and from, and within the vicinity of, the ballpark. A main feature of the TMP would be a Traffic Routing Plan, detailed in measure B3. Additionally, the TMP would include measures to address transportation concerns including transportation demand management, transit use and improvements, pedestrians movement, and mitigation of impacts on area residents and businesses.	BTCC	• Complete and adopt prior to the first ballpark event. • Revise as necessary to reflect actual experience.	• Confirm adoption of plan prior to the first ballpark event. • Monitor ongoing refinements through participation in the BTCC.	Port, DPT

MEASURE/MITIGATION	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING ACTIONS / SCHEDULE	MONITORING RESPONSIBILITY
TRAFFIC MITIGATION MEASURES				
B3. TRAFFIC ROUTING PLAN (TRP)				
Adopt and implement a Traffic Routing Plan (TRP), comparable to that identified and analyzed in the EIR, as part of the TMP.	BTCC	The TRP shall be in place and the specific measures described below shall be implemented prior to the first ballpark event.	• Confirm that all required actions described below, including construction of improvements and establishment of operating procedures, have occurred prior to the first ballpark event. • Ongoing monitoring will be conducted by the Port through the BTCC.	Port, DPT, DPW, BTCC
Specific traffic routing measures shall include the following:				
• Install signs on northbound U.S. 101 approaching I-280 to guide project traffic to use I-280.	Caltrans, DPW			
• Install guide signs to designated project parking areas as needed.	Caltrans, DPW			
• Install changeable message signs on northbound I-280 south of Cesar Chavez Street and in advance of the split between King Street and Sixth/Brannan Street ramps. Use messages that guide through traffic around the area and ballpark traffic to the nearest project parking area. Post detour signs as necessary on I-280 south of Mariposa Street to guide motorists to alternate ramps (e.g., Cesar Chavez or Sixth Street).	Caltrans, DPW			

MEASURE/MITIGATION	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING ACTIONS / SCHEDULE	MONITORING RESPONSIBILITY
• Post parking attendants on Third Street north of Fourth Street and on Fourth Street near Third, before a game, to form an entrance to the designated ballpark parking area.	DPT, project sponsor			
• Implement controls to limit the use of Third Street between King and Sixteenth Streets by non-ballpark traffic, including these or similar measures:	DPT, DPW, MUNI			
• Place barriers across Third Street 100 feet (ft.) south of the south end of the Lefty O'Doul Bridge and on the south side of the intersection of Third/Berry Streets to block vehicle access to the bridge for the hour before and after games or other events.	DPT/DPW			
• Prior to street closures, place "Recommended Detour" signs along the Cesar Chavez, Potrero Avenue and Seventh Street alternate routes.	DPT/DPW			
• Use PCOs at the intersections of Third/Sixteenth Streets, King/Second Streets, and King/Fourth Streets to enforce the mandatory detour around the Lefty O'Doul Bridge. About 10 PCOs would be required at these intersections and to control pedestrian flows near the ballpark.	DPT			
• Place a temporary "Local Traffic Only" sign on Sixth Street at the Sixteenth Street intersection to discourage attempts to use of Sixth as a bypass around the Third Street detour.	DPT/DPW			
• Reserve a lane for transit vehicles only on Third Street, and use traffic cones to keep pedestrians out of the transit lane.	DPT			
• Establish parking attendant lanes and begin parking for the ballgame once the mandatory detour at Sixteenth Street and Third Street is in operation and the barriers south of the bridge are in place.	DPT			

MEASURE/MITIGATION	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING ACTIONS / SCHEDULE	MONITORING RESPONSIBILITY
• Keep the barriers in place following the game until pedestrian and bus transit/light rail movements have substantially cleared from the periphery of the ballpark and on the Lefty O'Doul Bridge. This is estimated to occur one hour after the game ends.	DPT			
• Control and route traffic so that the land uses on Berry Street between Third and Fourth Streets have access to the portion of Third Street between Berry and King Street at all times. These uses are the China Basin Landing Building and the future uses planned for the Mission Bay project north of Berry Street. PCOs would need to control traffic on this short section of Third Street. On eastbound King Street at Third Street, traffic destined for these land uses should be allowed to turn right in order to reach Berry Street. Traffic exiting these uses from Berry Street would turn left onto northbound Third Street and be allowed by the PCOs through the Third and King Street intersection.	DPT			
• Provide truck access to businesses on the north side of King Street between Second and Third Streets as needed during pre- and post-game closures. PCOs would need to allow deliveries on this segment of King Street, making sure that trucks did not interfere with bus bridge and MMX loading and unloading before and after ballgames.	DPT			
• Work with the Coast Guard and involve property owners and tenants with boats docked in China Basin Channel to develop a set of procedures that would minimize the Peter Maloney Bridge and Lefty O'Doul Bridge openings for about 45 minutes to an hour before and after a game.	DPT, U.S. Coast Guard, project sponsor			
• Work with property owners and tenants (e.g., Mission Bay Golf Center) along Channel Street, Owens Street, and China Basin Street between Fourth Street and Sixteenth Street to manage ballpark traffic between the Giants ballpark parking lots and Sixteenth Street. For example, PCOs and barriers may be needed across Owens Street near Sixteenth Street and Channel Street at the west end of the Giants' parking area west of Fourth Street to restrict ballpark traffic from using Channel and Owens Streets if necessary.	DPT, project sponsor			

MEASURE/MITIGATION	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING ACTIONS / SCHEDULE	MONITORING RESPONSIBILITY
• Route private game-oriented charter buses to a passenger loading and bus staging area proposed on the east side of Third Street at the intersection with Fourth and Mission Rock Streets. Charter buses would be directed to approach this location from Fourth Street from the north and Third Street from the south and to avoid the residential area east of Second Street and South of Bryant Street. Ingress to the staging area could be provided from Third Street with egress onto Mission Rock Street. Passengers would walk to and from the ballpark along Third Street, which would be closed to traffic. The PCOs located at intersections along the Third and Fourth Street routes would be instructed to give priority to MUNI vehicles and charter buses to the extent that is practical. A priority access/egress route for charter buses, such as that now provided at 3Com Park, would not be available. This lack of priority may inhibit charter bus operations as compared with the current level of usage at 3Com Park.	DPT			
• Install a permanent guide sign on northbound U.S. 101 approaching the Vermont Street off-ramp as follows: ***Giants Ballpark Traffic Use Seventh Street Exit***.	Caltrans			
• Install a permanent guide sign on the northeast corner of Vermont and Mariposa Streets directed toward off-ramp traffic with a directional arrow toward northbound Vermont Street as follows: ***Giants Ballpark Traffic Use Vermont Street***.	DPT/DPW			
• Install a permanent guide sign on the southeast corner of the intersection of Vermont and Sixteenth Streets with a directional arrow toward eastbound Sixteenth Street to access dedicated Giants parking south of China Basin Channel as follows: ***Giants Ballpark Traffic Use Sixteenth Street*** with a directional arrow toward eastbound Sixteenth Street for access to dedicated Giants parking south of China Basin Channel. Alternatively, traffic could continue north on Vermont Street to access private parking facilities north of China Basin Channel.	DPT/DPW			

MEASURE/MITIGATION	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING ACTIONS / SCHEDULE	MONITORING RESPONSIBILITY
• Place barriers and PCOs at King/Third and King/Second Streets restricting access to King Street. Between Second and Third Streets, the south side of King Street would be restricted to pedestrians and bicycles while the north side (westbound direction) would be available for MUNI shuttle buses traveling south from Market Street on Second Street, loading/unloading passengers along the north side of King Street and returning to Market Street via Third Street.	DPT/DPW			
• Place barriers, chains and a ***No Ballpark Traffic*** sign at the east side of Brannan/Second Streets, west side of Brannan/Embarcadero, west side of South Park Avenue/Second Street and the east side of South Park Avenue/Third Street to restrict through traffic in residential areas. These measures would be instituted only if actual monitoring of traffic conditions determines the need to discourage through traffic in these areas.	DPT/DPW			
B4. ADDITIONAL TRANSIT SERVICES				
Provide MUNI Metro Extension (MMX) service at four cars per train serving the ballpark on a regular schedule.	MUNI	Prior to the first ballpark event.	Confirm provision of service.	MUNI

MEASURE/MITIGATION	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING ACTIONS / SCHEDULE	MONITORING RESPONSIBILITY
B5. FERRY SERVICE				
Project sponsor would participate in the public-private partnership of major Bay Area governmental agencies and ferry service providers, including BCDC, MTC, the Bay Area Council, BADCAT/BAEF, GGNRA, the US Park Service, Caltrans, the Golden Gate Bridge District, AC Transit, the Port of Oakland, and the Blue and Gold Fleet and other public and private ferry operators, which is currently proposing to undertake a study of the feasibility of an expanded Regional Ferry Transportation System. At the conclusion of the study, project sponsor would make good faith efforts to assist in implementing feasible study recommendations relating to ballpark ferry service. At that time, project sponsor would also undertake measures to enhance the attractiveness of ferry service as a mode of transportation for ballpark events.	Project sponsor	Provide status report to Port prior to the first ballpark event.	• Confirm participation in study. • Require status report regarding good faith efforts and other measures undertaken prior to opening of ballpark.	Port
B6. CALTRAIN SERVICE				
Develop a CalTrain service and financial program to accommodate Peninsula ballpark patrons within the financial and operations capacities of JPB member agencies. Add two cars for departing trains after weekend day games.	CalTrain, BTCC	Establish service prior to first ballpark event.	Monitor service on an ongoing basis in conjunction with the BTCC.	BTCC

MEASURE/MITIGATION	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING ACTIONS / SCHEDULE	MONITORING RESPONSIBILITY
B5. FERRY SERVICE				
Project sponsor would participate in the public-private partnership of major Bay Area governmental agencies and ferry service providers, including BCDC, MTC, the Bay Area Council, BADCAT/BAEF, GGNRA, the US Park Service, Caltrans, the Golden Gate Bridge District, AC Transit, the Port of Oakland, and the Blue and Gold Fleet and other public and private ferry operators, which is currently proposing to undertake a study of the feasibility of an expanded Regional Ferry Transportation System. At the conclusion of the study, project sponsor would make good faith efforts to assist in implementing feasible study recommendations relating to ballpark ferry service. At that time, project sponsor would also undertake measures to enhance the attractiveness of ferry service as a mode of transportation for ballpark events.	Project sponsor	Provide status report to Port prior to the first ballpark event.	• Confirm participation in study. • Require status report regarding good faith efforts and other measures undertaken prior to opening of ballpark.	Port
B6. CALTRAIN SERVICE				
Develop a CalTrain service and financial program to accommodate Peninsula ballpark patrons within the financial and operations capacities of JPB member agencies. Add two cars for departing trains after weekend day games.	CalTrain, BTCC	Establish service prior to first ballpark event.	Monitor service on an ongoing basis in conjunction with the BTCC.	BTCC

MEASURE/MITIGATION	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING ACTIONS / SCHEDULE	MONITORING RESPONSIBILITY
B7. TRANSIT INCENTIVE PROGRAM				
Develop and implement a program for the ballpark that encourages transit use and other alternative modes of travel to the ballpark. This program shall be designed and implemented prior to the opening of the ballpark and shall continue on an ongoing basis. The purpose of the transit incentive program shall be to develop strategies to reduce ballpark parking demand through education, marketing and incentives. Such measures may include charging for parking in the dedicated lots, concession discounts to fans who show evidence of riding on transit or ballpark shuttles, and an informational campaign regarding transit schedules, availability and convenience. Ballpark parking should be priced at a relatively high level, to encourage transit use.	Project sponsor	• Establish prior to the first ballpark event. • Ongoing modification as appropriate.	• Participate in the BTCC. • Review and comment on program and any modifications.	Port, BTCC
B8. TRANSPORTATION DEMAND MANAGEMENT				
Develop a transportation demand management (TDM) plan for employees and concessionaires.	Project sponsor, BTCC	• Establish prior to the first ballpark event. • Ongoing modifications as appropriate.	• Participate in the BTCC. • Review and comment on program and any modifications.	Port, BTCC

MEASURE/MITIGATION	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING ACTIONS / SCHEDULE	MONITORING RESPONSIBILITY
B9. PUBLIC INFORMATION/OUTREACH PROGRAMS				
Develop public information/outreach programs that shall include the following types of actions: • Work with transit and private parking operators and game ticket distributors to offer transit and parking passes when fans purchase tickets. • Consider scheduling some of the approximately 13 weekday afternoon games for a late 3:30 - 4:00 p.m. start time instead of a 12:35 p.m. start. • Develop a brochure, information packet, and/or internet web page providing full information about ballpark travel options.	Project sponsor, BTCC	• Establish prior to the first ballpark event. • Ongoing modification of programs as appropriate.	• Participate in the BTCC. • Review and comment on program. • Request status report regarding weekday afternoon start time decision.	Port, BTCC

MEASURE/MITIGATION	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING ACTIONS / SCHEDULE	MONITORING RESPONSIBILITY
B10. MOTORIST INFORMATION SYSTEM (MIS)				
Develop an MIS program to provide motorists and all travelers to and from the ballpark with real-time information about traffic, parking, and transit before and after games. It could include the following types of measures: • Use existing sports and news oriented radio stations to broadcast travel conditions. • Establish a cellular phone hot-line which provides up-to-date travel information. • Participate in the ongoing Bay Area TravInfo system which provides up-to-date travel data to participants. TravInfo is a program sponsored by the Metropolitan Transportation Commission and Caltrans to provide travelers with access to accurate, real-time information regarding travel conditions. • Implement a low-frequency radio station(s) to provide motorists with traffic and parking information in the vicinity of the ballpark.	Project sponsor, BTCC	• Establish prior to the first ballpark event. • Modify as appropriate.	• Participate in the BTCC. • Review and comment on program and any modifications.	Port, BTCC
B11. SPECIAL EVENTS				
• Implement elements of the TMP as appropriate and recommended by the BTCC for non-ballgame special events, as described on FEIR page V.47. • Notify the BTCC of any large, special events designed for more than 42,000 spectators and submit a special transportation plan to the committee defining the measures to be implemented in order to mitigate the impacts of the event which might go beyond those of a normal sellout ballgame.	Project sponsor, BTCC	• Address in TMP. • Prepare plans as required based on events.	• Require plan for special events. • Monitor through the BTCC.	Port, BTCC

MEASURE/MITIGATION	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING ACTIONS / SCHEDULE	MONITORING RESPONSIBILITY
TRANSIT MITIGATION MEASURES				
B12. FACILITATE AND ACCOMMODATE MUNI METRO EXTENSION	MUNI, DPT, DPW	The measures described below shall be in place and the specific measures implemented prior to the first ballpark event.	• Confirm that all required actions described below, including construction of improvements and establishment of operating procedures, are in place prior to the first ballpark event. • Monitor through the BTCC.	BTCC
B12A. Operational Measures				
• Close King Street between Second and Third Streets before and after games as specified above.	DPT			
• Open doors on the street side of the vehicle after games.	MUNI			
• Have proof-of-fare payment in effect, which requires patrons to display proof that they have paid the fare only upon request by a MUNI official. MUNI personnel could check for proof-of-fare payment in the boarding area, on the train, or at departure stations.	MUNI			
• Provide MUNI ticket dispensing machines in the ballpark so that fans can purchase them during games.	MUNI, project sponsor			

MEASURE/MITIGATION	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING ACTIONS / SCHEDULE	MONITORING RESPONSIBILITY
B12B. King Street Right of Way Capital Improvements				
• Remove cobblestones and replace with a flat-boarding surface.	DPW			
• Extend the curb about 5-6" toward the tracks to close the gap between the curb and the vehicle.	DPW			
• Relocate drains due to curb relocation.	DPW			
• Use tree grates to replace open pits.	DPW			
• Cover conduits.	DPW			
• Relocate "Second Street" sign.	DPW			
• Fence the transit trackway between crosswalks.	MUNI, DPW			

MEASURE/MITIGATION	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING ACTIONS / SCHEDULE	MONITORING RESPONSIBILITY
B12C. Other Capital Improvements				
• Extend the mid-block crossing to the westbound lane of King Street; install traffic signal at that location.	DPW			
• Place some limited signs to indicate procedures for post-game activity.	DPW			
• Install moveable barriers at stations depending on fare collection process.	DPW, MUNI			
• Provide low fencing on at least the south side of the trackway (and possibly the north side as well, if required) between the crosswalks west of the platform and the crosswalk at Third Street.	DPW			
B13. TRANSIT PRIORITY				
Provide transit lanes and remove parking on the east side of Third Street between King and Market Streets from 3:00 to 5:00 p.m. after weekday games and from 6:00 to 8:00 p.m. on weekday night games. Also position PCOs along Second Street as required during these times.	DPW, DPT, MUNI	As required for specified times.	• Confirm that transit lanes and PCOs are provided. • Monitor through the BTCC.	DPW, DPT, MUNI
B14. BUS BRIDGE				
Provide a bus bridge between the ballpark and the area of Market Street near Third Street and the Montgomery Street BART Station. Pre-game buses would load on Second Street between Market and Stevenson Streets. Passengers would disembark on the north side of King Street and passengers would cross at crosswalks at either Second or Third Streets. Post-game operations would occur in the same locations, but in reverse order. At either time, buses would run on Second Street southbound and Third Street northbound. See p. IV. 185 of EIR for bus bridge details.	MUNI, DPT	As required for ballgames and other events.	• Confirm that bus bridge is provided. • Monitor through the BTCC.	MUNI, DPT

MEASURE/MITIGATION	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING ACTIONS / SCHEDULE	MONITORING RESPONSIBILITY
PEDESTRIAN MITIGATION MEASURES				
B15. CLOSE LEFTY O'DOUL BRIDGE				
Close the Lefty O'Doul bridge to vehicular traffic (except MUNI) one hour before and one hour after the game in order to allow pedestrians and bicyclists full use of the bridge. Before and after ballgames, cover the parts of the bridge used by pedestrians with a material more amenable to walking.	DPT, project sponsor	• Close the bridge for games and other events as required. • Have bridge covering system in place prior to the first ballpark event.	• Confirm that closing system is in place. • Confirm that bridge covering is in place. • Monitor through the BTCC.	DPT
B16. BERRY STREET SIDEWALK AND/OR CHINA BASIN CHANNEL WALKWAY				
Include as a suggested improvement measure to be considered by the BTCC for possible adoption as part of the re-routing plan described in mitigation measure B3.	DPT/DPW/BTCC	• BTCC to consider as part of formulation of traffic routing plan described in measure B3.	• Confirm that this measure has been considered. • Monitor through the BTCC.	DPT, DPW, BTCC
B17. CROSSWALK IMPROVEMENTS				
Change the signal timing at the intersections of King Street at Second Street and King Street at Third Street to provide pedestrians more time to cross.	DPT/DPW	Prior to the first ballpark event.	• Confirm that timing changes have been made. • Monitor through the BTCC.	DPT, DPW, BTCC

MEASURE/MITIGATION	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING ACTIONS / SCHEDULE	MONITORING RESPONSIBILITY
C. NOISE				
C1. CONCERT NOISE				
All concerts at the ballpark featuring live amplified music shall comply with all applicable laws, including but not limited to the San Francisco Police Code. With the exception of five (5) concerts per year, the following additional restrictions shall apply: project sponsor shall perform a sound test, and on the basis of this test, establish a limit on music noise in the ballpark that would result in increases in exterior noise at representative residential receptors in the adjoining neighborhood of no greater than 3 decibels above the then-existing ambient hourly average (L_{eq}) noise levels at those receptor locations.	Project sponsor	Perform sound test prior to first live amplified music; ongoing monitoring.	• Confirm results of test. • Perform ongoing monitoring of noise levels.	Port
C2. PILE-DRIVING NOISE				
Consult with the Port to determine the times when pile driving would cause the least disturbance to neighboring uses. Require the construction contractor to limit pile-driving activity to result in the least disturbance to people. This could require a work permit pursuant to San Francisco Noise Ordinance Section 2908, if pile driving during nighttime hours were required. Require the construction contractor to pre-drill holes for piles (if feasible, based on soils) to the maximum feasible depth, to minimize noise and vibration from pile driving. The actual pounding from pile driving would occur during a five- to eight-minute span per pile, if pre-drilling is feasible.	Project sponsor	Prior to commencement of pile driving.	• Consult with project sponsor. • Monitor compliance with permit. • Review pre-drilling plan.	DPW, Port

MEASURE/MITIGATION	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING ACTIONS / SCHEDULE	MONITORING RESPONSIBILITY
D. AIR QUALITY				
D1. CONSTRUCTION PM_{10}				
Require the contractor to implement the following, developed from the Bay Area Air Quality Management District's (BAAQMD) master list of feasible PM_{10} control measures, at all construction sites of the proposed project: • Water all active construction areas at least twice a day, or as needed to prevent visible dust plumes from blowing off-site. • Use tarpaulins or other effective covers for on-site storage piles and for haul trucks that travel on streets. • Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all *unpaved* parking areas and staging areas at construction sites. • Sweep all *paved* access routes, parking areas, and staging areas daily (preferably with water sweepers). • Sweep streets daily (preferably with water sweepers) if visible amounts of soil material are carried onto public streets. • The BAAQMD recommends suspending excavation and grading on large construction sites when high winds cause visible blowing dust. This measure would be included by the project sponsor as a condition of the construction contract. • Obtain reclaimed water from the Clean Water Program for dust control purposes during construction.	Project sponsor	During construction.	• Confirm inclusion in construction contracts. • Monitor ongoing compliance through site visits as appropriate.	Port

MEASURE/MITIGATION	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING ACTIONS / SCHEDULE	MONITORING RESPONSIBILITY
E. SEISMICITY				
E1. EMERGENCY EVACUATION PLANNING				
Develop an Evacuation Plan for the proposed ballpark for use in the event of an emergency situation which necessitated partial or complete evacuation of the facility.	Project sponsor	Establish prior to the first ballpark event.	Review plan.	Office of Emergency Services
F. WATER QUALITY and AQUATIC ECOLOGY				
F1. SHALLOW-DRAFT TUGBOATS FOR TURBIDITY MINIMIZATION				
Require the construction contractor to use shallow-draft tugboats to prevent turbidity and sediment re-suspension caused by tugboat activity. Require the construction contractor to operate the tugboats at the minimum speed necessary to maintain maneuverability of the barges.	Project sponsor	During waterside construction.	Confirm inclusion in construction contracts.	Port

MEASURE/MITIGATION	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING ACTIONS / SCHEDULE	MONITORING RESPONSIBILITY
F2. MONITORING OF PACIFIC HERRING SPAWNING				
Specify in construction contracts that if tugboat use or pile driving activities in the Bay were scheduled during the peak spawning season of December 1 to March 1 the following conditions must be fulfilled:	Project sponsor	During waterside construction.	Confirm inclusion in construction contracts.	Port
• A professional fisheries biologist, or other individual sufficiently competent to identify herring spawning activity, would monitor the project site daily at any time when tugboats are in use or pile driving activity occurs in the Bay.				
• In the event that the on-site biologist or qualified staff person detects herring spawning at, or within 200 meters of, tugboat berthing areas or areas in the Bay where pile driving activity is taking place, the biologist or qualified staff person would immediately notify the Environmental Review Officer and the ballpark construction manager who would cease tugboat use and all pile driving activity in the Bay for a minimum of 14 days, or until the on-site biologist determines that the hatch has been completed and larval herring have left the site. Any tugboat operations and/or any pile driving activity in the Bay may be resumed thereafter.				
F3. SILT CURTAIN FOR SUB-MARINE PILE-DRIVING AND BULKHEAD REPAIR				
Install a silt curtain for sub-marine pile-driving activities around each pilot hole location prior to drilling the holes and driving the piles.	Project sponsor	During waterside construction.	Confirm inclusion in construction contracts.	Port
Ensure that an underwater silt curtain be used to surround areas of the bulkhead that are scheduled for repair during the peak spawning season.				

MEASURE/MITIGATION	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING ACTIONS / SCHEDULE	MONITORING RESPONSIBILITY
F4. DEBRIS CONTROL DURING BULKHEAD REPAIR				
Require the contractor for the bulkhead repair work to use suspended or floating platforms covered with tarps and to use catch-nets. Replace tarps as necessary. Place catch-nets of a sufficient gauge beyond the edges of the platforms and placed flush against the curtain wall of the bulkhead to ensure that all debris is prevented from entering the Channel.	Project sponsor	During waterside construction.	Confirm inclusion in construction contracts.	Port
F5. PREVENTION OF TOXIC SPILLS FROM PIER 46B DISCHARGE PIPE				
Require the contractor for the bulkhead repair work to inspect the discharge pipe with a probe for the presence of toxic material. If material is found in the pipe, a sample would be collected and tested at a certified laboratory. If laboratory results show that the material is hazardous or toxic, the material either would be removed from the pipe before it is removed from the bulkhead, or the pipe would be plugged prior to removal, so that spills of toxic material into the Channel are prevented. Any toxic material found would be disposed of at an approved facility.	Project sponsor	During waterside construction.	Confirm inclusion in construction contracts.	Port
F6. ENCLOSURE OF ZINC APPLICATION AREA				
Specify in construction contracts that the working area for application of zinc coating to the bulkhead be enclosed to the extent feasible with impervious material to contain excess spray and over-drift.	Project sponsor	During waterside construction.	Confirm inclusion in construction contracts.	Port

MEASURE/MITIGATION	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING ACTIONS / SCHEDULE	MONITORING RESPONSIBILITY
F7. LITTER CONTROL				
Prevent litter generated by waterfront areas associated with the ballpark from entering China Basin Channel by the placement of trash receptacles, regular collection of trash, public notices, and regular skimming of the surface of China Basin Channel. Trash receptacles shall be conveniently placed and widely available for public use along the Port Walk, the Lefty O'Doul and Peter Maloney bridges, and in all of the South of Channel parking lots proposed to be dedicated for ballpark use. Receptacles shall be emptied regularly and trash picked up regularly so overflows of garbage in those areas are minimized. Trash collection shall occur before and after games, and as needed during non-game times. Specific maintenance staff shall be assigned to perform trash collection along the Port Walk. Signs or warnings shall be posted along the bridges and Port Walk to encourage users of the ballpark to dispose of litter properly. Signs or warnings shall also be posted at the South of Channel parking lots. Provide maintenance staff and resources to skim the Channel edges east of the Lefty O'Doul Bridge and the Bay shoreline adjacent to the South of Channel parking lots at frequent and regular intervals. Because floating litter tends to drift, skimming would be needed along the entire length of the Channel, at the mouth of the Channel, and in the areas along the Bay shoreline adjacent to the South of Channel parking areas.	Project sponsor, DPW, Port	Prior to first ballpark event.	• Confirm that improvements and plan are in place. • Conduct periodic site visits.	Port, Zoning Administrator
F8. CAPTURE OF STORM WATER ON SOUTH OF CHANNEL PARKING AREAS				
Design and construct drainage improvements for the South of Channel parking areas such that no storm water runoff would directly enter China Basin Channel of the Bay without treatment. Drainage improvements would convey collected rainwater to City Sewers for treatment at the Southeast Water Pollution Control Plant. If storm water inlets are provided at the parking areas, install oil/water separators at each inlet.	Project sponsor	Prior to use of parking.	Submit design to Zoning Administrator and DPW prior to construction of parking areas.	Zoning Administrator, Port

MEASURE/MITIGATION	MITIGATION RESPONSIBILITY	MITIGATION SCHEDULE	MONITORING ACTIONS / SCHEDULE	MONITORING RESPONSIBILITY
G. CULTURAL RESOURCES				
G1. SUBSURFACE RESOURCES				
Retain an archaeologist and follow requirements outlined on pages 13 - 14 of Exhibit 2.	Project sponsor	Prior to, during and after construction.	Set forth on pages 13 - 14 of Exhibit 2.	DCP

EXHIBIT 2

PACIFIC BELL PARK MITIGATION MEASURES

A. VISUAL QUALITY AND LIGHTING

A1. PARKING AREA LIGHTING

Design parking area lighting to minimize off-site glare. The design could include 45-degree cutoff angles on light fixtures to focus light within the site, and specifications that spill lighting from parking areas would be 0.25 foot-candle or less at 5 ft. from the property line of the parking areas.

B. TRANSPORTATION AND CIRCULATION

B1. BALLPARK TRANSPORTATION COORDINATION COMMITTEE

Form a Ballpark Transportation Coordinating Committee (BTCC) to implement and monitor the operation of the transportation mitigation program. This committee should include, for example, a transportation coordinator from the Giants staff, and representatives from the Department of Parking and Traffic (DPT), the Department of City Planning, the Police Department, MUNI, CalTrain, BART, and the ferry service operators. The committee also could include representatives of neighborhood, special interest groups, and property owners. Take care to avoid creating such a large committee that appropriate actions cannot be taken quickly.

B2. TRANSPORTATION MANAGEMENT PLAN

The primary initial responsibility of the BTCC shall be to refine and adopt a Transportation Management Plan (TMP), based on a draft submitted by the project sponsor. The BTCC shall also have the responsibility of implementing the TMP. The TMP should be based upon accepted planning practices and principles with emphasis on incentives for transit, pedestrian, and bicycle modes and disincentives for auto modes. In particular it should encourage downtown employees and visitors to walk, bike, or ride transit to the ballpark, and to leave their cars at home or in existing lots away from the ballpark.

The ultimate objective of the TMP would be the efficient movement of people to and from, and within the vicinity of, the ballpark. A main feature of the TMP would be a Traffic Routing Plan, detailed in measure B3. Additionally, the TMP would include measures to address transportation concerns including transportation demand management, transit use

and improvements, pedestrians movement, and mitigation of impacts on area residents and businesses.

TRAFFIC MITIGATION MEASURES

B3. TRAFFIC ROUTING PLAN

Adopt and implement as part of the TMP a Traffic Routing Plan, comparable to that identified and analyzed in the EIR. The general goals of the Traffic Routing Plan shall be as follows:

1) Direct non-project traffic to alternate routes to allow project traffic and other local traffic to use the streets leading to the ballpark and ballpark parking.

2) Discourage traffic intrusion into nearby residential neighborhood areas to the maximum extent feasible.

3) Maintain a reasonable level of access to all properties in the project area.

4) Provide motorists with traffic detour and alternate route information prior to arrival in the ballpark vicinity.

5) Disperse ballpark traffic quickly after games to a variety of traffic routes.

6) Flexibly accommodate traffic conditions as they change due to different types and sizes of events at different times of year, different days of the week, and different times of day.

Specific traffic routing measures shall include the following:

- Install signs on northbound U.S. 101 approaching I-280 to guide project traffic to use I-280.
- Install guide signs to designated project parking areas as needed.
- Install changeable message signs on northbound I-280 south of Cesar Chavez Street and in advance of the split between King Street and Sixth/Brannan Street ramps. Use messages that guide through traffic around the area and ballpark traffic to the nearest project parking area. Post detour signs, as necessary, on I-280 south of Mariposa Street to guide motorists to alternate ramps (e.g., Cesar Chavez or Sixth Street).
- Post parking attendants on Third Street north of Fourth Street and on Fourth Street near Third, before a game, to form an entrance to the designated ballpark parking area.

- Implement controls to limit the use of Third Street between King and Sixteenth Streets by non-ballpark traffic, including these or similar measures:

- Place barriers across Third Street 100 feet (ft.) south of the south end of the Lefty O'Doul Bridge and on the south side of the intersection of Third/Berry Streets to block vehicle access to the bridge for the hour before and after games or other events.

- Prior to street closures, place "Recommended Detour" signs along the Cesar Chavez, Potrero Avenue and Seventh Street alternate routes.

- Use PCOs at the intersections of Third/Sixteenth Streets, King/Second Streets, and King/Fourth Streets to enforce the mandatory detour around the Lefty O'Doul Bridge. About 10 PCOs would be required at these intersections and to control pedestrian flows near the ballpark.

- Place a temporary "Local Traffic Only" sign on Sixth Street at the Sixteenth Street intersection to discourage attempts to use of Sixth as a bypass around the Third Street detour.

- Reserve a lane for transit vehicles only on Third Street, and use traffic cones to keep pedestrians out of the transit lane.

- Establish parking attendant lanes and begin parking for the ballgame once the mandatory detour at Sixteenth Street and Third Street is in operation and the barriers south of the bridge are in place.

- Keep the barriers in place following the game until pedestrian and bus transit/light rail movements have substantially cleared from the periphery of the ballpark and on the Lefty O'Doul Bridge. This is estimated to occur one hour after the game ends.

- Control and route traffic so that the land uses on Berry Street between Third and Fourth Streets have access to the portion of Third Street between Berry and King Street at all times. These uses are the China Basin Landing Building and the future uses planned for the Mission Bay project north of Berry Street. PCOs would need to control traffic on this short section of Third Street. On eastbound King Street at Third Street, traffic destined for these land uses should be allowed to turn right in order to reach Berry Street. Traffic exiting these uses from Berry Street would turn left onto northbound Third Street and be allowed by the PCOs through the Third and King Street intersection.

- Provide truck access to businesses on the north side of King Street between Second and Third Streets as needed during pre- and post-game closures. PCOs would need to allow deliveries on this segment of King Street, making sure that trucks did not interfere with bus bridge and MMX loading and unloading before and after ballgames.

- Work with the Coast Guard and involve property owners and tenants with boats docked in China Basin Channel to develop a set of procedures that would minimize the Peter Maloney

Bridge and Lefty O'Doul Bridge openings for about 45 minutes to an hour before and after a game.

- Work with property owners and tenants (e.g., Mission Bay Golf Center) along Channel Street, Owens Street, and China Basin Street between Fourth Street and Sixteenth Street to manage ballpark traffic between the Giants ballpark parking lots and Sixteenth Street. For example, PCOs and barriers may be needed across Owens Street near Sixteenth Street and Channel Street at the west end of the Giants' parking area west of Fourth Street to restrict ballpark traffic from using Channel and Owens Streets if necessary.

- Route private game-oriented charter buses to a passenger loading and bus staging area proposed on the east side of Third Street at the intersection with Fourth and Mission Rock Streets. Charter buses would be directed to approach this location from Fourth Street from the north and Third Street from the south. Ingress to the staging area could be provided from Third Street with egress onto Mission Rock Street. Passengers would walk to and from the ballpark along Third Street, which would be closed to traffic. The PCOs located at intersections along the Third and Fourth Street routes would be instructed to give priority to MUNI vehicles and charter buses to the extent that is practical. A priority access/egress route for charter buses, such as that now provided at 3Com Park, would not be available. This lack of priority may inhibit charter bus operations as compared with the current level of usage at 3Com Park.

- Install a permanent guide sign on northbound U.S. 101 approaching the Vermont Street off-ramp as follows: ***Giants Ballpark Traffic Use Seventh Street Exit***.

- Install a permanent guide sign on the northeast corner of Vermont and Mariposa Streets directed toward off-ramp traffic with a directional arrow toward northbound Vermont Street as follows: ***Giants Ballpark Traffic Use Vermont Street***.

- Install a permanent guide sign on the southeast corner of the intersection of Vermont and Sixteenth Streets with a directional arrow toward eastbound Sixteenth Street to access dedicated Giants parking south of China Basin Channel as follows: ***Giants Ballpark Traffic Use Sixteenth Street*** ö with a directional arrow toward eastbound Sixteenth Street for access to dedicated Giants parking south of China Basin Channel. Alternatively, traffic could continue north on Vermont Street to access private parking facilities north of China Basin Channel.

- Place barriers and PCOs at King/Third and King/Second Streets restricting access to King Street. Between Second and Third Streets, the south side of King Street would be restricted to pedestrians and bicycles while the north side (westbound direction) would be available for MUNI shuttle buses traveling south from Market Street on Second Street, loading/unloading passengers along the north side of King Street and returning to Market Street via Third Street.

- Place barriers, chains and a ***No Ballpark Traffic*** sign at the east side of Brannan/Second Streets, west side of South Park Avenue/Second Street and the east side of South Park Avenue/Third Street to restrict through traffic in residential areas. These measures would be

instituted only if actual monitoring of traffic conditions determines the need to discourage through traffic in these areas.

Other features for consideration in the re-routing plan are described in the Preliminary Traffic Routing Plan analyzed in detail in the EIR. Some of these features, and other improvement measures recommended by Commentors to reduce non-significant impacts of the project, are included in Appendix A.

B4. ADDITIONAL TRANSIT SERVICES

Provide MUNI Metro Extension (MMX) service at four cars per train serving the ballpark on a regular schedule.

B5. FERRY SERVICE PROVISION AND STUDY PARTICIPATION

Provide appropriate ferry service for all ballgames by up to five boats and landing opportunities adjacent to the ballpark (potentially at a double-berthed ferry landing float), provided that such service is consistent with the regional ferry service plans and studies described below, does not interfere with pedestrian circulation or South Beach Harbor operations, provides for the maximum feasible public access for both ballpark and non-ballpark uses, ensures public safety, and that the location proves consistent with the maximum opportunities for year-round use. Ferry service would be provided to the ballpark from Vallejo, Larkspur, Sausalito and/or Tiburon, Oakland and Alameda, and Fisherman's Wharf/Pier 39 and the Ferry Building. Provide the San Francisco waterfront shuttle service by either a dedicated boat or as a continuation of a route from Sausalito that would stop by the Wharf and the Ferry Building on its way to the ballpark.

The project sponsor would participate in the public-private partnership of major Bay Area governmental agencies and ferry service providers, including BCDC, MTC, the Bay Area Council, BADCAT/BAEF, GGNRA, the US Park Service, Caltrans, the Golden Gate Bridge District, AC Transit, the Port of Oakland, and the Blue and Gold Fleet and other public and private ferry operators, which is currently proposing to undertake a study of the feasibility of an expanded Regional Ferry Transportation System. At the conclusion of the study, the project sponsor would make good faith efforts to assist in implementing feasible study recommendations relating to ballpark ferry service. At that time, the project sponsor would also undertake measures to enhance the attractiveness of ferry service as a mode of transportation for ballpark events.

B6. CALTRAIN SERVICE

Develop a CalTrain service and financial program to accommodate Peninsula ballpark patrons within the financial and operations capacities of JPB member agencies. In order to serve ballgames, it is recommended that the JPB take the following actions:

- Add three to five cars to midday (10:30 a.m. to 12:30 p.m.) trains and to early rush hour trains (3:45 to 4:30 p.m.) for weekday afternoon games.
- Add a departing train about 20 minutes after the end of weekday night games.
- Add two cars for departing trains after weekend day games.

B7. TRANSIT INCENTIVE PROGRAM

Develop and implement a program for the ballpark that encourages transit use and other alternative modes of travel to the ballpark. This program shall be designed and implemented prior to the opening of the ballpark and shall continue on an ongoing basis. The purpose of the transit incentive program shall be to develop strategies to reduce ballpark parking demand through education, marketing and incentives. Such measures may include charging for parking in the dedicated lots, concession discounts to fans who show evidence of riding on transit or ballpark shuttles, and an informational campaign regarding transit schedules, availability and convenience. Ballpark parking should be priced at a relatively high level, to encourage transit use.

B8. TRANSPORTATION DEMAND MANAGEMENT

Develop a transportation demand management (TDM) plan for employees and concessionaires. The plan could include, for example, providing employees and concessionaires with free or subsidized transit passes to encourage transit use and reduce parking impacts.

B9. PUBLIC INFORMATION/OUTREACH PROGRAMS

Develop public information/outreach programs that shall include the following types of actions:

- Work with transit and private parking operators and game ticket distributors to offer transit and parking passes when fans purchase tickets.
- Consider scheduling some of the approximately 13 weekday afternoon games for a late 3:30 - 4:00 p.m. start time instead of a 12:35 p.m. start. The average game lasts

three hours and would end at 6:30 - 7:00 p.m. Even when games ended earlier, it would be convenient for fans to extend their stay in the area to avoid the traffic. This would reduce project traffic and transit travel during the height of the peak commute traffic period (the Lefty O'Doul Bridge would be open to vehicular traffic during the ballgame and closed to vehicles before and after games) and the time when MUNI resources are fully deployed. Parking impacts would also be less than those associated with the afternoon game.

- Develop a brochure, information packet, and/or internet web page providing full information about ballpark travel options.

B10. MOTORIST INFORMATION SYSTEM (MIS)

Develop an MIS program to provide motorists and all travelers to and from the ballpark with real-time information about traffic, parking, and transit before and after games. It could include the following types of measures:

- Use existing sports and news oriented radio stations to broadcast travel conditions.

- Establish a cellular phone hot-line which provides up-to-date travel information.

- Participate in the ongoing Bay Area TravInfo system which provides up-to-date travel data to participants. TravInfo is a program sponsored by the Metropolitan Transportation Commission and Caltrans to provide travelers with access to accurate, real-time information regarding travel conditions.

- Implement a low-frequency radio station(s) to provide motorists with traffic and parking information in the vicinity of the ballpark.

B11. SPECIAL EVENTS

Implement elements of the TMP, as appropriate and as recommended by BTCC for non-ballgame special events, as described on FEIR p. V.47.

Notify the BTCC of any large, special events designed for more than 42,000 spectators and submit a special transportation plan to the committee defining the measures to be implemented in order to mitigate the impacts of the event which might go beyond those of a normal sellout ballgame.

TRANSIT MITIGATION MEASURES

B12. FACILITATE AND ACCOMMODATE MUNI METRO EXTENSION

B12A. Operational Measures

- Close King Street between Second and Third Streets before and after games as specified above.
- Open doors on the street side of the vehicle after games.
- Have proof-of-fare payment in effect, which requires patrons to display proof that they have paid the fare only upon request by a MUNI official. MUNI personnel could check for proof-of-fare payment in the boarding area, on the train, or at departure stations.
- Provide MUNI ticket dispensing machines in the ballpark so that fans can purchase them during games.

B12B. King Street Right of Way Capital Improvements

- Remove cobblestones and replace with a flat-boarding surface.
- Extend the curb about 5-6" toward the tracks to close the gap between the curb and the vehicle.
- Cover conduits.
- Use tree grates to replace open pits.
- Relocate drains due to curb relocation.
- Relocate ASecond Street" sign by DPT.
- Fence the transit trackway between crosswalks.

B12C. Other Capital Improvements

- Extend the mid-block crossing to the westbound lane of King Street; install traffic signal at that location.
- Place some limited signs to indicate procedures for post-game activity.
- Install moveable barriers depending on fare collection process.
- Provide low fencing on at least the south side of the trackway (and possibly the north side as well, if required) between the crosswalks west of the platform and the crosswalk at Third Street.

B13. TRANSIT PRIORITY

Provide transit lanes and remove parking on the east side of Third Street between King and Market Streets from 3:00 to 5:00 p.m. after weekday games and from 6:00 to 8:00 p.m. on weekday night games. Also position PCOs along Second Street as required during these times.

B14. BUS BRIDGE

Provide a bus bridge between the ballpark and the area of Market Street near Third Street and the Montgomery Street BART Station. Pre-game buses would load on Second Street between Market and Stevenson Streets. Passengers would disembark on the north side of King Street and passengers would cross at crosswalks at either Second or Third Streets. Post-game operations would occur in the same locations, but in reverse order. At either time, buses would run on Second Street southbound and Third Street northbound. See p. IV. 185 of the EIR for bus bridge details.

PEDESTRIAN MITIGATION MEASURES

B15. CLOSURE OF LEFTY O'DOUL BRIDGE

Close Lefty O'Doul Bridge to vehicular traffic (except MUNI) one hour before and one hour after the game in order to allow pedestrians and bicyclists full use of the bridge. Before and after ballgames, use a temporary surface to cover the parts of the bridge used by pedestrians with a material more amenable to walking. Such a surface might also distinguish the pedestrian area from the area reserved for transit.

B16. BERRY STREET SIDEWALK AND/OR CHINA BASIN CHANNEL WALKWAY

A pedestrian/bicycle connection from the project site through to Seventh Street is needed, located either on Berry Street or along the north edge of China Basin Channel.

B17. CROSSWALK IMPROVEMENTS

Change the signal timing at the intersections of King Street at Second Street and King Street at Third Street to proved pedestrians more time to cross.

Other measures intended to reduce non-significant impacts to be considered by the BTCC for possible inclusion in the TMP are listed in Appendix A.

C. NOISE

C1. CONCERT NOISE

Limit concerts at the ballpark featuring live amplified music without limits on maximum noise levels to about five per year. Restrict additional concerts as follows: project sponsor shall perform a sound test, and on the basis of this test, establish a limit on music noise in the ballpark that would result in increases in exterior noise at representative residential

receptors in the adjoining neighborhood of no greater than 3 decibels above the then-existing ambient hourly average (L_{eq}) noise levels at those receptor locations.

C2. PILE-DRIVING NOISE

Consult with the Department of Public Works to determine the times when pile driving would cause the least disturbance to neighboring uses. Require the construction contractor to limit pile-driving activity to result in the least disturbance to people. This could require a work permit from the Director of Public Works pursuant to San Francisco Noise Ordinance Section 2908, if pile driving during nighttime hours were required.

Require the construction contractor to pre-drill holes for piles (if feasible, based on soils) to the maximum feasible depth, to minimize noise and vibration from pile driving. The actual pounding from pile driving would occur during a five- to eight-minute span per pile, if pre-drilling is feasible.

D. AIR QUALITY

D1. CONSTRUCTION PM_{10}

Require the contractor to implement the following mitigation program, developed from the Bay Area Air Quality Management District's (BAAQMD) master list of feasible PM_{10} control measures, at all construction sites of the proposed project:

- Water all active construction areas at least twice a day, or as needed to prevent visible dust plumes from blowing off-site;
- Use tarpaulins or other effective covers for on-site storage piles and for haul trucks that travel on streets;
- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all *unpaved* parking areas and staging areas at construction sites;
- Sweep all *paved* access routes, parking areas, and staging areas daily (preferably with water sweepers);
- Sweep streets daily (preferably with water sweepers) if visible amounts of soil material are carried onto public streets; and
- The BAAQMD recommends suspending excavation and grading on large construction sites when high winds cause visible blowing dust. This measure would be included by the project sponsor as a condition of the construction contract.
- Obtain reclaimed water from the Clean Water Program for dust control purposes during construction.

E. SEISMICITY

E1. EMERGENCY EVACUATION PLANNING

Develop an Evacuation Plan for the proposed ballpark for use in the event of an emergency situation which necessitated partial or complete evacuation of the facility.

F. WATER QUALITY AND AQUATIC ECOLOGY

F1. SHALLOW-DRAFT TUGBOATS FOR TURBIDITY MINIMIZATION

Require the construction contractor to use shallow-draft tugboats to prevent turbidity and sediment re-suspension caused by tugboat activity.

Also require the construction contractor to operate the tugboats at the minimum speed necessary to maintain maneuverability of the barges. Slower speeds would reduce the spin of tugboat propellers, thus minimizing turbidity and sediment re-suspension.

F2. MONITORING OF PACIFIC HERRING SPAWNING

Specify in construction contracts that if tugboat use were scheduled during the peak spawning season of December 1 to March 1 the following conditions must be fulfilled:

- A professional fisheries biologist, or other individual sufficiently competent to identify herring spawning activity, would monitor the project site daily at any time when tugboats are in use.

- In the event that the on-site biologist or qualified staff person detects herring spawning at, or within 200 meters of, tugboat berthing areas, the biologist or qualified staff person would immediately notify the Environmental Review Officer and the ballpark construction manager who would cease tugboat use for a minimum of 14 days, or until the on-site biologist determines that the hatch has been completed and larval herring have left the site. Tugboat operations may be resumed thereafter.

F3. SILT CURTAIN FOR SUB-MARINE PILE-DRIVING AND BULKHEAD REPAIR

Install a silt curtain for sub-marine pile-driving activities around each pilot hole location prior to drilling the holes and driving the piles.

Ensure that an underwater silt curtain be used to surround areas of the bulkhead that are scheduled for repair during the peak spawning season.

F4. DEBRIS CONTROL DURING BULKHEAD REPAIR

Require the contractor for the bulkhead repair work to use suspended or floating platforms covered with tarps and to use catch-nets. Replace tarps as necessary. Place catch-nets of a sufficient gauge beyond the edges of the platforms and placed flush against the curtain wall of the bulkhead to ensure that all debris is prevented from entering the Channel.

F5. PREVENTION OF TOXIC SPILLS FROM PIER 46B DISCHARGE PIPE

Require the contractor for the bulkhead repair work to inspect the discharge pipe with a probe for the presence of toxic material. If material is found in the pipe, a sample would be collected and tested at a certified laboratory. If laboratory results show that the material is hazardous or toxic, the material either would be removed from the pipe before it is removed from the bulkhead, or the pipe would be plugged prior to removal, so that spills of toxic material into the Channel are prevented. Any toxic material found would be disposed of at an approved facility.

F6. ENCLOSURE OF ZINC APPLICATION AREA

Specify in construction contracts that the working area for application of zinc coating to the bulkhead be enclosed to the extent feasible with impervious material to contain excess spray and over-drift.

F7. LITTER CONTROL

Prevent litter generated by waterfront areas associated with the ballpark from entering China Basin Channel by the placement of trash receptacles, regular collection of trash, public notices, and regular skimming of the surface of China Basin Channel. Trash receptacles shall be conveniently placed and widely available for public use along the Port Walk, the Lefty O'Doul and Peter Maloney bridges, and in all of the South of Channel parking lots proposed to be dedicated for ballpark use. Receptacles shall be emptied regularly and trash picked up regularly so overflows of garbage in those areas are minimized. Trash collection shall occur before and after games, and as needed during non-game times. Specific maintenance staff shall be assigned to perform trash collection along the Port Walk. Signs or warnings shall be posted along the bridges and Port Walk to encourage users of the ballpark to dispose of litter properly. Signs or warnings shall also be posted at the South of Channel parking lots.

Provide maintenance staff and resources to skim the Channel edges east of the Lefty O'Doul Bridge and the Bay shoreline adjacent to the South of Channel parking lots at frequent and regular intervals. Because floating litter tends to drift, skimming would be needed along the entire length of the Channel, at the mouth of the Channel, and in the areas along the Bay shoreline adjacent to the South of Channel parking areas.

F8. CAPTURE OF STORM WATER ON SOUTH OF CHANNEL PARKING AREAS

Design and construct drainage improvements for the South of Channel parking areas such that no storm water runoff would directly enter China Basin Channel or the Bay without treatment. Drainage improvements would convey collected rainwater to City sewers for treatment at the Southeast Water Pollution Control Plant. If storm water inlets are provided at the parking areas, install oil/water separators at each inlet.

G. CULTURAL RESOURCES

G1. SUBSURFACE RESOURCES

Given the location and depth of excavation proposed, and the likelihood that archaeological resources would be encountered on the project site, the sponsor has agreed to retain the services of an archaeologist. The archaeologist would carry out a pre-excavation testing program to better determine the probability of finding cultural and historical remains. The testing program would use a series of mechanical, exploratory borings or trenches and/or other testing methods determined by the archaeologist to be appropriate.

If, after testing, the archaeologist determines that no further investigations or precautions are necessary to safeguard potentially significant archaeological resources, the archaeologist would submit a written report to the Environmental Review Officer (ERO), with a copy to the project sponsor. If the archaeologist determines that further investigations or precautions are necessary, he/she shall consult with the ERO and they shall jointly determine what additional procedures are necessary to minimize potential effects on archaeological resources.

These additional mitigation measures would be implemented by the project sponsor and might include a program of on-site monitoring of all site excavation, during which the archaeologist would record observations in a permanent log. The monitoring program, whether or not there are finds of significance, would result in a written report to be submitted first and directly to the ERO, with a copy to the project sponsor. During the monitoring program, the project sponsor would designate one individual on site as his/her representative. This representative would have the authority to suspend work at the site to give the archaeologist time to investigate and evaluate archaeological resources should they be encountered.

Should evidence of cultural resources of potential significance be found during the monitoring program, the archaeologist would immediately notify the Environmental Review Officer (ERO), and the project sponsor would halt any activities which the archaeologist and the ERO jointly determine could damage such cultural resources. Ground-disturbing activities which might damage cultural resources would be suspended for a total maximum of four weeks over the course of construction.

After notifying the ERO, the archaeologist would prepare a written report to be submitted first and directly to the ERO, with a copy to the project sponsor, which would contain an assessment of the potential significance of the find and recommendations for what measure

should be implemented to minimize potential effects on archaeological resources. Based on this report, the ERO would recommend specific additional mitigation measures to be implemented by the project sponsor. These additional mitigation measures might include a site security program, additional on-site investigations by the archaeologist, and/or documentation, preservation, and recovery of cultural material.

Finally, the archaeologist would prepare a report documenting the cultural resources that were discovered, an evaluation as to their significance, and a description as to how any archaeological testing, exploration and/or recovery program was conducted.

Copies of all draft reports prepared according to this mitigation measure would be sent first and directly to the ERO for review. Following approval by the ERO, copies of the final report(s) would be sent by the archaeologist directly to the President of the Landmarks Preservation Advisory Board and the California Archaeological Site Survey Northwest Information Center. Three copies of the final archaeology report(s) shall be submitted to the Office of Environmental Review, accompanied by copies of the transmittals documenting its distribution to the President of the Landmarks Preservation Advisory Board and the California Archaeological Site Survey Northwest Information Center.

No specific locations of archaeological sensitivity are identified; however, ship and boat remains could be buried almost anywhere in the project area. Because of this sensitivity, locations where construction excavation would take place, that otherwise are not subject to archaeological investigation, would be subject to archaeological monitoring.

APPENDIX A

POSSIBLE RE-ROUTING PLAN AND SUGGESTED IMPROVEMENT MEASURES

POSSIBLE RE-ROUTING PLAN

The following items are included in the Preliminary Traffic Routing Plan in the EIR and would be considered for adoption by the BTCC:

- Position PCOs at busy intersections to monitor traffic and ensure pedestrian safety.

- Develop a special signal timing plan at intersections where a Parking Control Officer might not be necessary (e.g., intersections with very few pedestrians).

- Install traffic cones and temporary detour signs at intersections where a special lane arrangement would accommodate project traffic more effectively.

- Prohibit on-street parking at locations where traffic is heaviest after weekday afternoon games (3:30 to 4:30) to increase intersection capacity and minimize delay.

- Re-evaluate traffic signal timing at intersections at which an unacceptable level of service was identified, especially at intersections near the outside boundary of the study area because these intersections would be minimally impacted by project traffic.

- Resurface and re-stripe Seventh Street from Sixteenth Street to Townsend Street to provide four travel lanes with bicycle lanes and sidewalks on both sides of the roadway to ensure adequate detour capacity and traffic and pedestrian safety. An alternative to the full resurfacing would be to limit the improvements to the re-striping and pavement repair necessary to accommodate the detoured ballpark-related traffic that would be needed about 80 - 85 days of the year.

- Re-stripe Terry A. Francois Boulevard from Mariposa Street north to the ballpark parking lot entrance to provide four travel lanes.

- Convert existing 90-degree parking on east side of Main Street just south of Harrison Street to parallel parking to provide one through lane.

- Re-stripe Townsend Street between Fourth and Seventh Streets to provide two travel lanes in both directions.

SUGGESTED IMPROVEMENT MEASURES

The following improvement measures are intended to reduce non-significant impacts.

Traffic Routing Improvement Measures

- Adjust the traffic routing plan for time of day, as appropriate.
- Coordinate and modify the Traffic Routing Plan and Transportation Management Plan based on ongoing changes in development and circulation that would occur with Mission Bay development.
- Monitor traffic in Potrero Hill and South Beach residential neighborhoods, and consider temporary barriers or assigning PCOs to discourage ballpark traffic in residential neighborhoods.
- Provide for access to China Basin Landing buildings and other uses located on streets temporarily closed as part of traffic routing plans.
- Review the effectiveness of special event-day traffic signal timing on a regular basis and adjust as necessary.
- Develop and install a series of small pedestrian guide signs which would show pedestrians the most appropriate routes to the ballpark and guide them away from neighborhood areas.

Parking Improvement Measures

Parking shortfalls are not considered a significant environmental impact because they do not produce any measurable physical effects, although they are inconvenient for many drivers and sometimes cause drivers to switch to transit or carpool modes. The following activities could help to limit parking shortfalls without developing additional parking facilities, as discussed below.

- Secure contractual commitments from private businesses and property owners to guarantee that a specified number of parking spaces would be available to Giants fans on weekends, particularly on Saturdays, within the study area north of China Basin Channel.
- Secure commitments from public and private garages within the study area that are currently closed on weekends and evenings to remain open on game days.
- Develop and implement a parking monitoring program during the initial five years of operation. The parking monitoring program would be designed to determine

the total parking demand generated by the ballpark based on actual use of the ballpark parking, including overflow parking north and south of China Basin Channel. The purpose of the program would be to adjust the amount of dedicated parking spaces provided by the project to ensure adequate parking, minimize overflow parking conditions, and develop a long-term plan for permanent parking. The parking monitoring results should be submitted to the San Francisco Planning Department for review at the end of each baseball season, so that adjustments can be made each year to improve the parking supply, parking operations, and educational/marketing programs for the following season.

- Monitor the South Beach and Potrero Hill areas for parking intrusion during ballgames. Pursuant to Ordinance 312-76, the South Beach and Potrero Hill neighborhoods could initiate the implementation of a permit parking program in their respective neighborhoods. In developing the program, the Department of Parking and Traffic (DPT) should provide technical assistance to the neighborhoods to identify and address parking issues which are uniquely associated with the ballpark during the baseball season and periodic special events. These issues include the boundary locations; the location of different parking time limits within the permit area boundaries; parking time limits during game and non-game seasons; and a coordinated signage program. The technical assistance would also determine the feasibility of residential visitor passes on game days. Much of this information could be developed by DPT for the parking and traffic study required as part of the permit parking program procedures. In addition, DPT would need to address the feasibility of issuing a limited number of permits in the South Beach area, because the number of residential units exceeds the supply of on-street parking available in this area.

- Coordinate with the facility or parking managers of major activity centers in the South of Market area (e.g., MOMA, the Moscone Center, and the Fashion Center) to avoid simultaneous scheduling of major events when possible, and to provide additional parking supply when simultaneous events do occur.

- Explore the possibility of negotiating with parking garages north of Market Street which are closed or under used on weekends and week nights to provide satellite parking for Giants fans with a shuttle to and from the ballpark. Parking facilities should be targeted to existing facilities North of Market Street, as well as outlying locations. Identified facilities in the downtown should be clustered together within several blocks, so that shuttle buses could pickup fans from several parking facilities in a centralized location.

- Recommend consideration of residential permit parking programs for residential neighborhoods near the ballpark site if they appear to be appropriate for further study.

- Assign Parking Control Officers to enforce residential permit parking restrictions in the South Beach and Potrero Hill areas on game or event days. As discussed on p. V.6, Parking Control Officers (PCOs) would control and route traffic before and after ballgames or events. A portion of these officers also could be available before games to enforce parking restrictions and serve as a visible deterrent to potential violators. Shortly after a game or event begins, additional PCOs would be available to ticket illegally parked cars.

- Restrict parking on Terry A. Francois Boulevard to a 2-hour limit, which would be too short and inconvenient for ballpark fans. Enforcement would be necessary during games to make this measure effective. Non-ballgame users of the parking who wanted to stay longer than 2 hours would be inconvenienced.

- Make special parking passes available for businesses, the Pier 52 boat launching ramp and other key activity centers along the waterfront. Passes would be placed on the dashboard of the parked car during ballgames. Cars without passes would be ticketed during the game. Strict enforcement of the pass program would be necessary, as some abuse would likely occur by some ballpark fans.

- Install parking meters with a 2-hour limit or programmable meters such as those used in Denver near Coors Field. During games, the 2-hour limit would discourage ballpark fans. With the computerized meters, the time limits could automatically be extended during non-game time periods.

- Request that the DPT install electronic (programmable) meters in commercial areas which could be affected by overflow parking from the ballpark. The neighborhoods could request that installation of meters in this area be given priority over other areas which are scheduled for meter replacement. Generally, existing commercial areas should be examined north of the Channel, roughly bounded by Fifth Street to the west, Brannan to the north, and The Embarcadero to the east. Once Mission Bay is developed the feasibility of installing programmable meters south of the Channel should also be investigated.

- Coordinate the boundaries of the residential permit program if the City or the Port also installs programmable meters in commercial areas near the ballpark.

- Within 5 years after opening of the ballpark, develop a permanent parking plan, if necessary, to address the long-term parking needs of the stadium. The plan should identify a permanent plan to provide sufficient dedicated parking spaces, and should be integrated with other travel demand management strategies such as those described on pp. V.43 - V.45. Development and implementation of the plan should be coordinated with the Ballpark Transportation Coordinating Committee.

- Restrict parking in off-street parking lots and garages located in South Beach on game or event days to fans who have pre-paid parking passes that are displayed on the vehicle dashboard. Lot operators would need to have agreed to this in advance, and they and Parking Control Officers would be responsible for enforcing this measure.

- Pedestrian/Bicycle Improvements

  - Remove and relocate existing obstructions on the east-side sidewalk including tow-away signs, trees and planter boxes, and news racks on Third Street between King and Townsend Streets to provide minimum clear space of 8 ft. on the 13-ft.-wide sidewalk. On Third Street between Townsend and Brannan Streets, MUNI bus shelter, garbage cans, sandwich signs, planter boxes and news racks could remain and/or be relocated.

  - Construct a 10-ft. sidewalk on both sides of Second Street between King and Townsend Streets. Place street furniture and necessary poles so that there is an effective width of 7 ft.

  - Provide a minimum of 150 secure bike parking spaces with the flexibility to accommodate up to 250. This could be a fenced area watched by an attendant or security guard in the parking lot immediately south of China Basin Channel as close to the Lefty O'Doul (Third Street) Bridge as possible.

  - Provide overflow bike parking for 200 to 300 bikes, with the flexibility to expand this as needed.

  - Provide a secured storage area for roller blades and skateboards, possibly by either a valet-style check-in system or individual lockers.

  - Include the availability of bicycle parking and the parking for roller blades and skateboards in all transportation-related information and brochures.

  - Provide bicycle and pedestrian access along the Berry Street or along the north side of China Basin Channel from the project site to Seventh Street. This would be on Catellus Development Corporation property or in the Berry Street right-of-way.

  - Include bicycle lanes and sidewalks on both sides of the roadway as part of other improvements on Seventh Street from Sixteenth Street to Townsend Street.

- Freight Loading Improvement Measures

    - Continue the current 3Com Park practice of limiting large truck operations on game days to the time periods well before and after games at the new site.

    - Develop a plan for large truck loading and deliveries at the Pavilion Building. The Plan could include some or all of the following elements as is feasible:

        - Make all Pavilion Building large truck deliveries at the east side loading docks. Off-loaded materials could then be transported to the west side service area in smaller trucks.

        - Allow large trucks to deliver at the Pavilion Building's west side service area only between the hours of 7:00 p.m. and 7:00 a.m. weekdays when no game is scheduled and on non-game weekends.

Construction Improvement Measures

- Identify a neighborhood construction coordinator to assure that all of the construction mitigation and improvement measures would be implemented. The phone number of the coordinator would be posted at the construction site and made known throughout the adjacent community to assure prompt response to complaints. The coordinator should ensure implementation of dust control and other construction measures.

- Schedule all truck operations to avoid the morning and evening peak periods in order to minimize conflicts between construction truck traffic and area traffic. In addition, the contractor could be required to use an on-site supervisor to direct all truck operations onto and off of the site.

- Coordinate ballpark construction activities with Catellus Development Corporation to assure that conflicts between ballpark and Mission Bay-related construction activities do not occur.

- Provide off-street parking for construction workers in vacant lots located to the south of the site along Third Street. These areas have already been identified as parking lots which would serve the proposed ballpark.

Neighborhood Improvement Plan

The Port Commission could establish a process to require special authorization for use of the ballpark for non-baseball events to minimize possible adverse effects on the neighborhood. Issues that might be considered in authorizing such events could include ending times for concerts and/or other responsibilities that could be imposed to minimize ancillary effects such as increased litter or noise.

In order to address concerns arising from ballpark and event activities the Giants could identify a community liaison who would be made known to neighbors and other concerned parties. The community liaison could establish a committee including representatives from the neighborhood and appropriate city agencies to develop measures that could be implemented to minimize undesirable non-significant impacts that might occur during events at the ballpark.

Visual Quality And Lighting

Test the installed field-lighting system prior to opening the ballpark to ensure that lighting met operating requirements in the ballpark, and minimized obtrusive spill lighting in the ballpark vicinity. Testing would include light-meter measurements at selected locations in the ballpark vicinity, to measure spill lighting from ballpark field-lighting fixtures, permit adjustment of lighting fixtures, and confirm that spill-lighting effects would be within the range of Maximum Vertical Values for foot-candles in Figure IV.C.3a of the EIR.

Noise

Mariposa Street Noise Reduction

Station a Parking Control Officer at Mariposa and Vermont Streets, near the U.S. 101 off-ramp, to direct ballpark traffic down Vermont Street to Sixteenth Street (a non-residential area) to reduce traffic noise levels along Mariposa Street (a residential area).

PORT OF SAN FRANCISCO

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MEMORANDUM

July 10, 1997

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Denise McCarthy, Vice President
Hon. Frankie Lee
Hon. James Herman

FROM: Douglas F. Wong
Executive Director

SUBJECT: Confirmation and Approval of Amendments to the City's General Plan and to the Existing Rincon Point-South Beach Redevelopment Plan, as described herein.

The proposed ballpark at China Basin requires amendments to the City's General Plan as required by Proposition B and to the existing Rincon Point-South Beach Redevelopment Plan (the "Plan Amendments"). On June 26, 1997, the Planning Commission and the Redevelopment Agency Commission certified the Final EIR for the ballpark project. On July 7, 1997, the Board of Supervisors approved the required ordinances amending the City's General Plan and the Rincon Point-South Beach Redevelopment Plan (Clerk of the Board of Supervisors File Nos. 271-97-5 and 151-97-3, respectively).

The Burton Act and City Charter grants the Port Commission the exclusive power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco. The attached Resolution No. 97-59 approves and confirms the actions taken by the Board of Supervisors in approving the amendments to the City's General Plan and the Rincon Point-South Beach Redevelopment Plan.

Prepared by: Douglas F. Wong

THIS PRINT COVERS CALENDAR ITEM NO. **2B**

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 97-59

WHEREAS, On March 26, 1996, the voters of the City and County of San Francisco approved Proposition B, which made certain changes to the City's zoning laws to allow a new ballpark to be developed privately at China Basin on a site bounded generally by King Street, Second Street, China Basin Channel and Third Street; and,

WHEREAS, Under Proposition B, it is the policy of the People of the City and County that the San Francisco Giants, an affiliate of the Giants, or the developer of the ballpark, enter into a ground lease of the China Basin site with the Port Commission (the "Port"), which provides that the Port will retain sole title and ownership of the land at all times; and,

WHEREAS, By Ordinance No. 277-97, the Board of Supervisors approved amendments to the City's General Plan, as required by Proposition B to accommodate development of the ballpark and related improvements; and,

WHEREAS, By Ordinance No. 276-97, the Board of Supervisors approved amendments to the Rincon Point-South Beach Redevelopment Plan to add the China Basin site to the Redevelopment Project Area to accommodate development of the ballpark and related improvements; and,

WHEREAS, On June 26, 1997, the City Planning Commission, by Motion No. 14398, and the Redevelopment Agency Commission, by Resolution No. 97-97, certified the Final Environmental Impact Report for the ballpark project ("FEIR") as accurate, adequate and objective and in compliance with the California Environmental Quality Act ("CEQA") and the CEQA Guidelines; and,

WHEREAS, The Port Commission has reviewed and considered the information contained in the FEIR; and,

WHEREAS, By Resolution No. 97-59, the Port Commission has found that the confirmation and approval of the Plan Amendments is part of the ballpark project for purposes of compliance with CEQA and

adopted findings with respect to the FEIR and, as required by CEQA, which findings are incorporated herein by this reference; and,

WHEREAS, By Resolution No. 97-54, the Port Commission finds that the Plan Amendments are consistent with the Burton Act; and,

WHEREAS, Charter Section B3.581 grants the Port Commission the exclusive power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; now, therefore be it

RESOLVED, That the Port Commission approves and confirms the amendments to the City's General Plan and the Rincon Point-South Beach Redevelopment Plan (a copy of Board of Supervisors Ordinance Nos. 277-97 and 276-97 are on file with the Port Commission Secretary) .

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of July 16, 1997.

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Secretary

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PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 97-54

WHEREAS, On March 26, 1996, the voters of the City and County of San Francisco approved Proposition B, which made certain changes to the City zoning laws to allow a new ballpark (the "Project") to be developed privately at China Basin on a site bounded generally by King Street, Second Street, China Basin Channel and Third Street (the "Property"); and,

WHEREAS, The Port Commission, as trustee of the lands transferred to the City pursuant to the Burton Act (Chapter 1333 of the Statutes of 1968 as amended), has the authority to enter into leases, franchises, permits, licenses and privileges that are in conformance with the Burton Act; and,

WHEREAS, Section 24 of the Burton Act (added under Chapter 1400 of the Statutes of 1969), provides that the rights and obligations of third parties arising from leases, contracts, or other instruments, if lawfully entered into, are protected from any impairment due to amendment, modification, or revocation of the Burton Act grant and that, should such an amendment, modification or revocation occur, the subject lease, contract or other instrument will remain in effect and the State Lands Commission may elect to succeed to the interest of the City and County of San Francisco in any such instrument; and,

WHEREAS, The Port Commission has reviewed and considered the Final Environmental Impact Report for the Project and has adopted findings as required by the California Environmental Quality Act in Resolution No. 97-53 and hereby incorporates such Resolution by this reference; and,

WHEREAS, The Port Commission has reviewed and considered the information contained in the FEIR; and,

WHEREAS, By Resolution No. 97-53, the Port Commission has found that the Burton Act findings are part of the ballpark project for purposes of compliance with CEQA and adopted findings with respect to the FEIR and, as required by CEQA, which findings are incorporated herein by this reference; and,

WHEREAS, The Port Commission is considering the following documents related to the proposed transaction with China Basin Ballpark Company LLC ("CBBC") and San Francisco Baseball Associates L.P. (the "Team

Owner") ("Transaction Documents") to implement the Project: (i) a Lease Disposition and Development Agreement ("DDA") between the Port and CBBC; (ii) a Ground Lease between the Port and CBBC (the "Lease"); (iii) a Non-Relocation Agreement and Guaranty from the Team Owner, together with certain other agreements related to the Non-Relocation Agreement, including a Nondisturbance Agreement for the Baseball Sublease and an Intercreditor Agreement; and (iv) a Purchase and Sale Agreement between the Port and the State of California, Department of Transportation ("Caltrans") for the purchase of a parcel owned by Caltrans which is located within the ballpark site; and,

WHEREAS, The nature of the improvements and uses contemplated for the Property under the Transaction Documents will expand and enhance public enjoyment of and access to the San Francisco Bay by bringing people of all ages to a place of public assembly and recreation adjacent to the shoreline at China Basin and providing unique vistas and overviews of the Bay and the City, and will encourage recreational visits to other nearby areas of the waterfront; and,

WHEREAS, Many of the ballpark patrons are expected to walk or take public transit along The Embarcadero to access the facility, thereby facilitating the use of the Port's public trust improvements, including parks, public access areas and water-oriented commercial-recreation projects that are proposed under the Port's Waterfront Land Use Plan; and,

WHEREAS, The Project provides significant public access to and along the waterfront where no such access currently exists, including an approximately 22-foot wide pedestrian walkway or "PortWalk" along China Basin Channel that will connect to and effectively extend the Embarcadero Roadway Pedestrian Promenade; and,

WHEREAS, The Ballpark Project has been reviewed for consistency with the recently adopted Waterfront Land Use Plan; and,

WHEREAS, CBBC has agreed to participate in a regional ferry service study and shall cooperate with the Port to implement feasible study recommendations and undertake measures to enhance the attractiveness of ferry service as a mode of transportation for ballpark events; and,

WHEREAS, The parties intend that $500,000 of the tax increment from the Project will be allocated for ferry terminal construction if needed; and,

WHEREAS, All revenues derived by the Port from the Lease and the DDA shall be deposited in a trust fund expendable only for public trust uses under the Burton Act; and,

WHEREAS, The Project, as contemplated under the Transaction Documents, is in the best interest of the public and the State and is consistent with the public trust for commerce, navigation and fisheries, including, without limitation, the statutory trust imposed by the Burton Act; now, therefore, be it

RESOLVED, That the Port Commission finds that the compensation to be paid to the Port under the proposed lease of the Property represents the fair market rent for the Property; and, be it further

RESOLVED, That the Transaction Documents are in accordance with the public trust for commerce, navigation and fisheries, including, without limitation, the statutory trust imposed by the Burton Act and the terms of the Burton Act, and may be lawfully entered into; and, be it further

RESOLVED, That the Port Commission hereby authorizes the Executive Director to seek concurrence from the State Lands Commission that the Transaction Documents are lawfully entered into in order to satisfy the requirements of CBBC and its lenders.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of July 16, 1997.

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Secretary

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 97-55

WHEREAS, On March 26, 1996, the voters of the City and County approved Proposition B, which made certain changes to the City's zoning laws to allow a new ballpark to be developed privately at China Basin on a site bounded generally by King Street, Second Street, China Basin Channel and Third Street; and,

WHEREAS, Under Proposition B, it is the policy of the People of the City and County that the San Francisco Giants, an affiliate thereof, or the developer of the ballpark, enter into a ground lease of the China Basin site with the Port Commission (the "Port"), which provides that the Port will retain sole title and ownership of the land at all times; and,

WHEREAS, China Basin Ballpark Company LLC ("CBBC") is a limited liability company, which the owners of the San Francisco Giants baseball team have organized to lease the China Basin site and develop and operate the new ballpark and related improvements; and,

WHEREAS, CBBC desires to lease the China Basin site from the Port, at fair market rent, and to construct the ballpark and related improvements; and,

WHEREAS, The Port and CBBC, as developer, wish to enter into a Leasehold Disposition and Development Agreement (the "DDA"); and,

WHEREAS, The DDA describes the agreement between the Port and CBBC to lease the site from the Port, upon the satisfaction of certain conditions precedent, and further describes the terms and conditions governing CBBC's obligations to construct the ballpark and related improvements; and,

WHEREAS, Under the DDA, the Redevelopment Agency of the City and County of San Francisco will enter into an Owner Participation Agreement ("OPA") with CBBC which provides, among other matters, for the Agency to use its best efforts to issue tax allocation bonds in an amount sufficient to generate up to $15 million in net proceeds to finance certain infrastructure improvements that will support the ballpark; and,

WHEREAS, On June 26, 1997, the City Planning Commission, by Motion No. 14398, and the Redevelopment Agency Commission, by Resolution

No. 97-97, certified the Final Environmental Impact Report for the ballpark project ("FEIR") as accurate, adequate and objective and in compliance with the California Environmental Quality Act ("CEQA") and the CEQA Guidelines; and,

WHEREAS, The Port Commission has reviewed and considered the information contained in the FEIR; and,

WHEREAS, By Resolution No. 97-53, the Port Commission has found that the DDA is part of the ballpark project for purposes of compliance with CEQA and adopted findings with respect to the FEIR and, as required by CEQA, which findings are incorporated herein by this reference; and,

WHEREAS, By Resolution No. 97-54, the Port Commission find that the DDA is consistent with the Burton Act; and,

RESOLVED, That the DDA is found to be consistent with the Objectives and Policies set forth in the Waterfront Land Use Plan; and, be it further

RESOLVED, That the Port Commission approves the form and substance of the DDA and the transactions which the DDA contemplates; and, be it further

RESOLVED, That, subject to Board of Supervisors approval, the Port Commission authorizes and directs the Executive Director to execute a DDA on substantially the same terms and conditions, a copy of which is on file with the Commission Secretary; and,

RESOLVED, That the Executive Director shall determine satisfaction of the conditions precedent under the DDA to the conveyance of the leasehold estate in the China Basin site, such determination to be conclusively evidenced by the execution and delivery by the Executive Director of the Lease; and, be it further

RESOLVED, That the Port Commission authorizes the Executive Director to enter into any additions, amendments or other modifications to the DDA (including, without limitation, preparation and attachment of, or changes to, any or all of the exhibits) that the Executive Director, in consultation with the City Attorney, determines are in the best interests of the Port, do not materially increase the obligations or liabilities of the Port, and are necessary or advisable to complete the transactions which the DDA contemplates and effectuate the purpose and intent of Proposition B and this resolution, such determination to be conclusively evidenced by the

execution and delivery by the Executive Director of the DDA and any such amendments to the DDA; and, be it further

RESOLVED, That the Port Commission authorizes and directs the Executive Director and any other appropriate officers, agents or employees of the City to take any and all steps (including, but not limited to, the execution and delivery of any and all certificates, agreements, notices, consents, escrow instructions, closing documents and other instruments or documents and any other actions) as they or any of them deems necessary or appropriate, in consultation with the City Attorney, in order to consummate the transactions under the DDA in accordance with this resolution, or to otherwise effectuate the purpose and intent of this resolution, such determination to be conclusively evidenced by the execution and delivery by any such person or persons of any such documents; and, be further

RESOLVED, That the Port Commission recommends approval of the DDA by the Board of Supervisors and authorizes and directs the Executive Director to cause a copy of this Resolution to be delivered to the Clerk of the Board of Supervisors; and, be it further

RESOLVED, That the Port Commission approves and confirms all prior actions taken by the officials, employees and agents of the Port with respect to the DDA.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of July 16, 1997.

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Secretary

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PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 97-56

WHEREAS, On March 26, 1996, the voters of the City and County approved Proposition B, which made certain changes to the City's zoning laws to allow a new ballpark to be developed privately at China Basin on a site bounded generally by King Street, Second Street, China Basin Channel and Third Street; and,

WHEREAS, Under Proposition B, it is the policy of the People of the City and County that the San Francisco Giants, an affiliate thereof, or the developer of the ballpark, enter into a ground lease of the China Basin site with the Port Commission (the "Port"), which provides that the Port will retain sole title and ownership of the land at all times; and,

WHEREAS, China Basin Ballpark Company LLC ("CBBC") is a limited liability company, which the owners of the San Francisco Giants baseball team have organized to lease the China Basin site and develop and operate the new ballpark and related improvements; and,

WHEREAS, CBBC desires to lease the China Basin site from the Port, at fair market rent; and,

WHEREAS, A copy of the proposed Ground Lease between the Port, as landlord, and CBBC, is on file with the Commission Secretary; and,

WHEREAS, The Executive Director of the Port (the "Executive Director") and the City's Director of Property have determined that the compensation to the City under the proposed Lease represents fair market rent for the China Basin site and such determination is supported by an MAI appraisal; and,

WHEREAS, All of the land comprising the China Basin site, which is the subject of the proposed Lease, is now, or will be before the Lease term begins, under the jurisdiction of the Port Commission; and,

WHEREAS, On June 26, 1997, the City Planning Commission, by Motion No. 14398, and the Redevelopment Agency Commission, by Resolution No. 97-97, certified the Final Environmental Impact Report for the ballpark project ("FEIR") as accurate, adequate and objective and in

compliance with the California Environmental Quality Act ("CEQA") and the CEQA Guidelines; and,

WHEREAS, The Port Commission has reviewed and considered the information contained in the FEIR; and,

WHEREAS, By Resolution No. 97-53, the Port Commission has found that the Lease is part of the ballpark project for purposes of compliance with CEQA and adopted findings with respect to the FEIR and, as required by CEQA, which findings are incorporated herein by this reference; and,

WHEREAS, By Resolution No. 97-54, the Port Commission finds that the Lease is consistent with the Burton Act; and,

WHEREAS, By Resolution No. 97-55, the Port Commission has approved a Lease Disposition and Development Agreement (the "DDA") for the development of the ballpark, a copy of which is on file with the Port Commission Secretary; and,

WHEREAS, The DDA sets forth certain conditions precedent to the conveyance of a leasehold estate in the China Basin site for the ballpark, including, but not limited to, a condition that CBBC obtain sufficient financing commitments to develop the ballpark and to deliver an agreement by the owners of the Giants baseball franchise not to relocate the franchise for a period corresponding to the initial term of the Lease; now, therefore, be it

RESOLVED, That the Lease is found to be consistent with the Objectives and Policies set forth in the Waterfront Land Use Plan; and be it further

RESOLVED, That the Port Commission hereby approves the form and substance of the Lease and the transaction contemplated by the Lease; and, be it further

RESOLVED, That the initial term of the Lease shall commence on the date possession of the premises is delivered under the DDA and continue through December 31, 2022, unless earlier terminated in accordance with the terms of the Lease, and such initial term shall be subject to options by the tenant to extend for up to a total term of 66 years from the commencement date, all on the terms and conditions more particularly described in the Lease; and, be it further

RESOLVED, That the rent under the Lease shall be $1,200,000 per year, subject to: (i) certain periodic cost-of-living adjustments during the initial term and any extended terms, with certain limitations on the maximum amount of those adjustments, as more particularly described in the provisions of the Lease, (ii) an adjustment to fair market rent at the beginning of the first extended term, on or about January 1, 2023, if the tenant elects to extend the initial term, and an additional adjustment to fair market rent at the beginning of fifth extended term, on or about, January 1, 2043, if the tenant elects to extend beyond the fourth extended term, both such fair market adjustments being subject to a specified floor and ceiling calculation, as such adjustments to rent are more particularly described in the Lease, and (iii) rent credits for certain advances paid by CBBC to the Port and for the amount of the fees, if any, paid by CBBC to the Port to extend the closing of the Lease transaction under the DDA, on the terms and conditions described in the Lease; and, be it further

RESOLVED, That under the Lease, the Port Commission, shall retain ownership of the land comprising the leased premises at all times; and, be it further

RESOLVED, That satisfaction of the conditions precedent under the DDA to the conveyance of the leasehold estate in the China Basin site shall be determined by the Executive Director, such determination to be conclusively evidenced by the execution and delivery by the Executive Director of the Lease; and, be it further

RESOLVED, That, subject to Board of Supervisors approval, the Port Commission authorizes and directs the Executive Director to execute a Ground Lease on substantially the same terms and conditions, a copy of which is on file with the Commission Secretary; and, be it further

RESOLVED, That the Port Commission authorizes the Executive Director to enter into any additions, amendments or other modifications to the Lease (including, without limitation, the exhibits) that the Executive Director determines, in consultation with the City Attorney, are in the best interests of the Port, do not decrease the rent or otherwise materially increase the obligations or liabilities of the Port, and are necessary or advisable to complete the transaction contemplated in the Lease and effectuate the purpose and intent of Proposition B and this resolution, such determination to be conclusively evidenced by the execution and

delivery by the Executive Director of the Lease and any amendments thereto; and, be it further

RESOLVED, That the Port Commission authorizes and urges the Executive Director and any other officers, agents or employees of the City to take any and all steps (including, but not limited to, the execution and delivery of any and all certificates, agreements, notices, consents, escrow instructions, closing documents and other instruments or documents) as they or any of them deems necessary or appropriate, in consultation with the City Attorney, in order to consummate the lease of the China Basin site in accordance with this resolution, or to otherwise effectuate the purpose and intent of this resolution, such determination to be conclusively evidenced by the execution and delivery by such person or persons of any such documents; and, be it further

RESOLVED, That the Port Commission recommends approval of the Lease by the Board of Supervisors and authorizes and directs the Executive Director to cause a copy of this Resolution to be delivered to the Clerk of the Board of Supervisors; and, be it further

RESOLVED, That the Board of Supervisors approves, confirms and ratifies all prior actions taken by the officials, employees and agents of the Port Commission or the City with respect to the Lease.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of July 16, 1997.

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Secretary

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PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 97-57

WHEREAS, On March 26, 1996, the voters of the City and County of San Francisco approved Proposition B, which made certain changes to the City's zoning laws to allow a new ballpark to be developed privately at China Basin on a site bounded generally by King Street, Second Street, China Basin Channel and Third Street; and,

WHEREAS, Under Proposition B, it is the policy of the People of the City and County that the San Francisco Giants, an affiliate of the Giants, or the developer of the ballpark, enter into a ground lease of the China Basin site with the Port Commission (the "Port"), which that provides that the Port will retain sole title and ownership of the land at all times; and,

WHEREAS, By Ordinance No. _____, the Board of Supervisors approved amendments to the Rincon Point-South Beach Redevelopment Plan to add the China Basin site to the Redevelopment Project Area to accommodate development of the ballpark and related improvements; and,

WHEREAS, By Resolution No. 97-55, the Port Commission approved a Leasehold Disposition and Development Agreement ("DDA") between the Port and CBBC, which contains an agreement to lease the China Basin site to CBBC upon satisfaction of certain conditions and which sets forth the scope of CBBC's obligations to develop the ballpark and related improvements; and,

WHEREAS, By Resolution No. 97-56, the Port Commission approved a Ground Lease ("Lease") between the Port and CBBC, for the development, use and occupancy of the ballpark and related improvements; and,

WHEREAS, Under the DDA, the Redevelopment Agency of the City and County of San Francisco will enter into an Owner Participation Agreement ("OPA") with CBBC which provides, among other matters, for the Agency to use its best efforts to issue tax allocation bonds to finance certain infrastructure improvements that will support the ballpark; and,

WHEREAS, San Francisco Baseball Associates LP (the "Team Owner") holds the professional baseball franchise for the City issued by the National League and is the owner of the San Francisco Giants professional baseball team; and,

WHEREAS, The Team Owner has organized China Basin Ballpark Company LLC ("CBBC"), for the purpose of developing and operating the ballpark at China Basin; and

WHEREAS, The Team Owner and CBBC will enter into a baseball lease and use agreement for the playing of Major League Baseball in the new ballpark site (the "Baseball Sublease") a copy of which is on file with the Commission Secretary; and,

WHEREAS, In order to induce the Port Commission to lease the China Basin site to CBBC, and to induce the City to approve the ballpark project generally, including an allocation of tax increment necessary for issuance by the Redevelopment Agency of the City and County of San Francisco (the "Redevelopment Agency") of tax allocation bonds to finance certain infrastructure needed to support the ballpark, the Team Owner has agreed to enter into (i) a Non-Relocation Agreement, whereby the Team Owner agrees that the home games of the Giants will be played at the new ballpark from completion of the ballpark through December 31, 2022, which is the end of the initial term of the Lease, subject to the terms contained in the Non-Relocation Agreement and the Baseball Sublease and (ii) a Guaranty, whereby the Team Owner guarantees certain obligations of CBBC to the City and the Redevelopment Agency, including payment to the Port of rent under the Lease and to the Redevelopment Agency of debt service on the tax allocation bonds under the OPA, if the Team Owner breaches the Non-Relocation Agreement, upon the terms and conditions further provided in such Guaranty; and,

WHEREAS, A copy of the proposed Non-Relocation Agreement (the "Non-Relocation Agreement") between the City and the Team Owner and the related Guaranty (the "Guaranty") is on file with the Port Commission Secretary and is attached to the DDA; and

WHEREAS, Related to the Non-Relocation Agreement are a Non-Disturbance and Attornment Agreement for the Baseball Sublease (the "Nondisturbance Agreement") among CBBC, the Team Owner and the Port, and an Intercreditor Agreement (the "Intercreditor Agreement") among the Team Owner, the lenders to the Team Owner, CBBC, the lenders to

CBBC, the Port and the Redevelopment Agency, copies of which are on file with the Port Commission Secretary and are attached to the DDA; and,

WHEREAS, The Nondisturbance Agreement provides that Team Owner will continue to play home baseball games of the San Francisco Giants at the new ballpark even if the Lease is terminated due to a default by CBBC, subject to the terms and conditions contained in such agreement and the Baseball Sublease; and,

WHEREAS, The Intercreditor Agreement contains certain agreements with the lenders to the Team Owner which govern in the event of a default by the Team Owner under a loan secured by the Giants franchise, including an opportunity for the City to find a local buyer for the team under the circumstances described in the Intercreditor Agreement; and,

WHEREAS, On June 26, 1997, the City Planning Commission, by Motion No. 14398, and the Redevelopment Agency Commission, by Resolution No. 97-97, certified the Final Environmental Impact Report for the ballpark project ("FEIR") as accurate, adequate and objective and in compliance with the California Environmental Quality Act ("CEQA") and the CEQA Guidelines; and,

WHEREAS, The Port Commission has reviewed and considered the information contained in the FEIR; and,

WHEREAS, By Resolution No. 97-53, the Port Commission has found that the Non-Relocation Agreement and Guaranty are part of the ballpark project for purposes of compliance with CEQA and adopted findings with respect to the FEIR and, as required by CEQA, which findings are incorporated herein by this reference; and,

WHEREAS, By Resolution No. 97-54, the Port Commission finds that the Non-Relocation Agreement and Guaranty is consistent with the Burton Act; and, now, therefore be it

RESOLVED, That the Port Commission hereby approves the form and substance of the Non-Relocation Agreement (including the Nondisturbance Agreement and the Intercreditor Agreement) and the Guaranty; and, be it further

RESOLVED, That, subject to Board of Supervisors approval, the Port Commission authorizes and directs the Executive Director of the Port (the "Executive

Director") to execute the Non-Relocation Agreement and further authorizes and directs the Executive Director to execute the Guaranty, Nondisturbance Agreement and Intercreditor Agreement, in the name and on behalf of the Port Commission, in substantially the form of such agreements presented to this Commission, on or before conveyance of the leasehold interest in the China Basin site under the DDA;; and, be it further

RESOLVED, That the Port Commission authorizes the Executive Director, in consultation with the City Attorney, to enter into any additions, amendments or other modifications to the Non-Relocation Agreement (including, but not limited to, the preparation and attachment of, or modifications to, any or all of the exhibits) and further authorizes the Executive Director, in consultation with the City Attorney, to enter into any additions, amendments or other modifications to the Guaranty, the Nondisturbance Agreement and the Intercreditor Agreement, that the Executive Director, as applicable, determines are in the best interests of the Port, do not decrease the non-relocation term or otherwise materially decrease the rights of the Port, and are necessary or advisable to complete the transaction such agreements contemplate such determination to be conclusively evidenced by the execution and delivery by the Executive Director of the Non-Relocation Agreement (including the Nondisturbance Agreement and the Intercreditor Agreement) and the Guaranty, and any amendments to such agreements; and, be it further

RESOLVED, That the Port Commission authorizes and urges the Executive Director and any other appropriate officers, agents and employees of the City to take any and all steps (including, but not limited to, execution and delivery of any documents which are exhibits to any of the agreements described in this resolution) as they or any of them deems necessary or appropriate, in consultation with the City Attorney, to effectuate the purpose and intent of this resolution, such determination to be conclusively evidenced by the execution and delivery by any such person or persons of any such documents; and, be it further

RESOLVED, That the Port Commission recommends approval of the Non-Relocation Agreement and the Guaranty by the Board of Supervisors and authorizes and directs the Executive Director to cause a copy of this Resolution to be delivered to the Clerk of the Board of Supervisors; and, be it further

RESOLVED, That the Port Commission approves, confirms and ratifies all prior actions taken by the officials, employees and agents of the Port Commission with respect to the Non-Relocation Agreement (including the Nondisturbance Agreement and the Intercreditor Agreement) and the Guaranty.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of July 16, 1997.

_____
Secretary

F:\COMMSN\GIANTS\NONRELO.RS4

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 97-58

WHEREAS, The State of California, Department of Transportation ("Caltrans") owns real property bounded by King, Second, Berry and Third Streets, and described generally as Assessor's Block 3794, Lots 3B and 27 (the "Caltrans Parcel"), which Caltrans has declared surplus to its needs; and,

WHEREAS, The Caltrans Parcel is more particularly described in the legal description; and,

WHEREAS, The Port Commission, as trustee of the lands transferred to the City pursuant to the Burton Act (Chapter 1333 of the Statutes of 1968 as amended), has the authority to enter into leases, franchises, permits, licenses and privileges that are in conformance with the Burton Act; and,

WHEREAS, Section 2.6 of the Burton Act (added to Chapter 1333 of the Statutes of 1968 pursuant to Assembly Bill 84) requires the State Director of Transportation, in consultation with the Director of Finance, to negotiate with the City's Port Commission, for the transfer of the Caltrans Parcel to the City, in trust, subject to the conditions and reservations contained in the Burton Act; and,

WHEREAS, On March 26, 1996, the voters of the City and County approved Proposition B, which made certain changes to the City's zoning laws to allow a new ballpark to be developed privately at China Basin on a site bounded generally by King Street, Second Street, China Basin Channel and Third Street; and,

WHEREAS, The China Basin site for the new ballpark includes the Caltrans Parcel and the acquisition of the Caltrans Parcel is necessary for the Ballpark Project; and,

WHEREAS, In accordance with Section 2.6 of the Burton Act, Caltrans and the Port Commission have negotiated the terms for the sale of the Caltrans Parcel to the City; and,

WHEREAS, On January 29, 1997, the California Transportation Commission, which has jurisdiction over the Department of Transportation, approved the sale of the Caltrans Parcel to the City, through its Port Commission; and,

WHEREAS, The Executive Director of the Port (the "Executive Director") and the City's Director of Property have determined that the purchase price and terms for the proposed acquisition contemplated by the Caltrans Term Sheet represents fair market value for the Caltrans Parcel as evidenced by their signatures on the Term Sheet; and,

WHEREAS, The Caltrans Term Sheet requires as a condition to the sale, that the City agree, upon the closing, to indemnify Caltrans for hazardous materials associated with the property and to also indemnify Caltrans for the costs of terminating tenancies as further provided therein; and,

WHEREAS, On June 26, 1997, the City Planning Commission, by Motion No. 14398, and the Redevelopment Agency Commission, by Resolution No. 97-97, certified the Final Environmental Impact Report for the ballpark project ("FEIR") as accurate, adequate and objective and in compliance with the California Environmental Quality Act ("CEQA") and the CEQA Guidelines; and,

WHEREAS, The Port Commission has reviewed and considered the information contained in the FEIR; and,

WHEREAS, By Resolution No. 97-53, the Port Commission has found that the purchase of the Caltrans Parcel is part of the ballpark project for purposes of compliance with CEQA and adopted findings with respect to the FEIR and, as required by CEQA, which findings are incorporated herein by this reference; and,

WHEREAS, By Resolution No. 97-54, the Port Commission finds that the Caltrans Parcel Acquisition is consistent with the Burton Act; and,

WHEREAS, On March 11, 1997, the Port Commission adopted Resolution No. 97-23, by which the Port Commission endorsed the terms of the Caltrans Term Sheet and authorized the Executive Director to pay the required $100,000 non-refundable deposit for the acquisition for the Caltrans Parcel; and,

WHEREAS, On May 5, 1997, the Port Commission adopted Resolution No. 97-38 which authorized the Port Executive Director to enter into a ten-year loan to finance the acquisition of the Caltrans site; and,

WHEREAS, On June 16, 1997, the Board of Supervisors approved by Resolution No. 594-97 the Port's ten-year loan to finance the acquisition of the Caltrans

site; and,

WHEREAS, By Resolution No. 97-55, this Port Commission approved a Leasehold Disposition and Development Agreement ("DDA") between the Port and China Basin Ballpark Company LLC ("CBBC"), which contains an agreement to lease the China Basin site to CBBC upon satisfaction of certain conditions and which will control development of the ballpark; and,

WHEREAS, By Resolution No. 97-56, this Port Commission approved a Ground Lease (the "Lease") between the Port and CBBC of the China Basin site, for the development, use and occupancy of the ballpark and related improvements; and,

WHEREAS, The DDA provides for CBBC to indemnify the City for costs of terminating tenancies on the Caltrans Parcel if and to the extent such costs exceed $500,000, in the event that the conveyance of the Lease for the China Basin site closes, and the DDA further provides for CBBC to indemnify the City for costs of terminating tenancies, without any dollar threshold, in the event the conveyance of the Lease does not close, all on the terms and conditions described in the DDA; and,

WHEREAS, CBBC has executed and delivered to Caltrans the Caltrans Indemnity Agreement which is attached as Exhibit A to the Caltrans Term Sheet (the "Caltrans Indemnity Agreement"); and,

WHEREAS, CBBC has executed and delivered to provide the Port and the City an Indemnification Agreement (the "City Indemnification Agreement"), under which it agrees to indemnify the City, the Port and the Redevelopment Agency for costs of termination of tenancies on the terms described therein which indemnification agreement will be superseded by the Lease if the deal closes, if it provides the Caltrans Indemnity Agreement to Caltrans; and,

WHEREAS, The Lease provides for CBBC to indemnify the City for hazardous materials costs relating to the development, use and occupancy of the China Basin site, including the Caltrans Parcel, as further provided in the Lease; now, therefore, be it

RESOLVED, That the Port Commission hereby approves the transaction contemplated by the Caltrans Term Sheet on the terms specified therein; and, be it further

RESOLVED, That the purchase price shall be $3,600,000 in all cash; and, be it further

RESOLVED, That the Port Commission authorizes and approves an agreement to indemnify the State and hold the State harmless from and against losses arising out of hazardous materials, subject to certain exceptions, on the terms consistent with those set forth in the Caltrans Term Sheet; and, be it further

RESOLVED, That the Port Commission authorizes and approves an agreement to indemnify the State and hold the State harmless from and against losses arising out of the termination of tenancies on the Caltrans Parcel, on terms and conditions consistent with those set forth in the Caltrans Term Sheet, and specifically authorizes and approves the form and substance of the Caltrans Indemnity Agreement which is attached as Exhibit A to the Caltrans Term Sheet (the "Caltrans Indemnity Agreement"); and, be it further

RESOLVED, That, subject to Board of Supervisors approval of the transaction as contemplated by the Term Sheet, the Port Commission authorizes and directs the Executive Director to negotiate and execute a binding Purchase and Sale Agreement (the "Purchase Agreement"), including the Caltrans Indemnity Agreement, on substantially the terms and conditions set forth in the Caltrans Term Sheet, a copy of each referenced document is on file with the Commission Secretary; and, be it further

RESOLVED, That the closing of the purchase of the Caltrans Parcel may occur before the closing of the conveyance of the Lease as provided in the DDA, if the closing of the purchase of the Caltrans Parcel occurs in anticipation of the closing of the Lease, as conclusively determined by the Executive Director of the Port; and, be it further

RESOLVED, That the Port Commission authorizes the Executive Director of the Port to enter into any additions, amendments or other modifications to the Caltrans Term Sheet and/or the Purchase Agreement (including, without limitation, the Caltrans Indemnity Agreement, the City Indemnification Agreement, and any other exhibits to such agreements) that they, in consultation with the City Attorney, determine are in the best interests of the Port do not increase the purchase price or otherwise materially increase the obligations or liabilities of the Port, and are necessary or advisable to complete the transaction contemplated in the Caltrans Term Sheet and effectuate the purpose and intent of Proposition B and this resolution, such determination to be conclusively evidenced by the

execution and delivery by the Executive Director of the Port the Purchase Agreement and any amendments to the Purchase Agreement; and, be it further

RESOLVED, That the Port Commission authorizes and directs the Executive Director to accept the Director's Deed from the State upon the closing in accordance with the terms and conditions of the Purchase Agreement, and authorizes and urges the Executive Director and any other appropriate officers, agents or employees of the City to take any and all steps (including, but not limited to, the execution and delivery of the Caltrans Indemnity Agreement and any and all certificates, agreements, notices, consents, escrow instructions, closing documents and other instruments or documents) as they or any of them deems necessary or appropriate in order to consummate the purchase of the Caltrans Parcel in accordance with this resolution, or to otherwise effectuate the purpose and intent of this resolution, such determination to be conclusively evidenced by the execution and delivery by such person or persons of any such documents; and, be it further

RESOLVED, That the Port Commission authorizes the Executive Director to seek the Board of Supervisors' approval of the purchase of the Caltrans Parcel and the supplemental appropriation to spend the loan proceeds for the Caltrans Parcel acquisition; and, be it further

RESOLVED, That the Port Commission recommends approval of the Caltrans acquisition by the Board of Supervisors and authorizes and directs the Executive Director to cause a copy of this Resolution to be delivered to the Clerk of the Board of Supervisors; and, be it further

RESOLVED, That the Port Commission approves, confirms and ratifies all prior actions taken by the officials, employees and agents of the Port with respect to the Caltrans acquisition.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of July 16, 1997.

_____

Secretary

PORT OF SAN FRANCISCO

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Cable SFPORTCOMM
Writer

MEMORANDUM

July 10, 1997

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Denise McCarthy, Vice President
Hon. Frankie Lee
Hon. James Herman

FROM: Douglas F. Wong Alex Lee for DW
Executive Director

SUBJECT: Vacation of portions of Berry Street and Second Street

DIRECTOR'S RECOMMENDATION: AUTHORIZE STAFF TO APPROVE VACATING PORTIONS OF BERRY STREET AND SECOND STREET

The proposed ballpark at China Basin requires vacating portions of Berry Street and Second Street as shown on Exhibits 1 and 2. The purpose of this item is to obtain the Port Commission's approval of the street vacations. The Board of Supervisors must also approve this action.

At its March 25, 1997 meeting the Port Commission initiated the process for vacating portions of Berry and Second Streets as set forth in the City's Public Works Codes (Resolution No. 97-26). The Commission determined that final action on the street vacations would not occur until environmental review of the ballpark project was complete and the ballpark project was approved by the Port Commission.

On June 26, 1997, the Planning Commission and the San Francisco Redevelopment Agency Commission reviewed and considered the Final Environmental Impact Report ("FEIR") and, by Motion No. 14398 and Resolution No. 97-97, respectively, found that the FEIR was adequate, accurate and objective, reflected the independent judgement of each Commission and that the Summary of Comments and Responses contained no significant revisions to the Draft Environmental Impact Report, adopted findings of significant impacts associated with the Project and certified the completion of the FEIR for the Project in compliance with CEQA and the CEQA Guidelines.

THIS PRINT COVERS CALENDAR ITEM NO. 3A

The street areas must be vacated in order for the City to deliver the site to China Basin Ballpark Company under the lease and for construction of the ballpark to begin. The portion of Second Street, between King and Berry, proposed to be vacated (Exhibit 1), will be used for pedestrian access to the ballpark and vehicular access to a parking garage for ballpark employees and the South Beach Marina. The portion of Berry Street, between Second and Third Streets, proposed to be vacated (Exhibit 2), is directly underneath the proposed ballpark site.

On June 9, 1997, the Board of Supervisors introduced a resolution of intent (File No. 164-97-3) to vacate streets within the ballpark site and a proposed ordinance for the street vacation (File No. 164-97-3.1). On June 23, 1997, the Board of Supervisors approved the resolution of intent to vacate, setting a hearing date before the full Board of Supervisors on July 14, 1997 on the merits of the street vacation.

Under the proposed legislation for the vacation of the streets, the vacation would not become effective until the Board of Supervisors approves the ballpark lease and the Port acquires the Caltrans parcel. The City, including the Port, is not responsible for the costs of relocating any utilities.

Staff recommends that the Port Commission approve the vacation of Second and Berry Streets, as described.

Prepared by: Alex Lee, Director of Facilities & Operations

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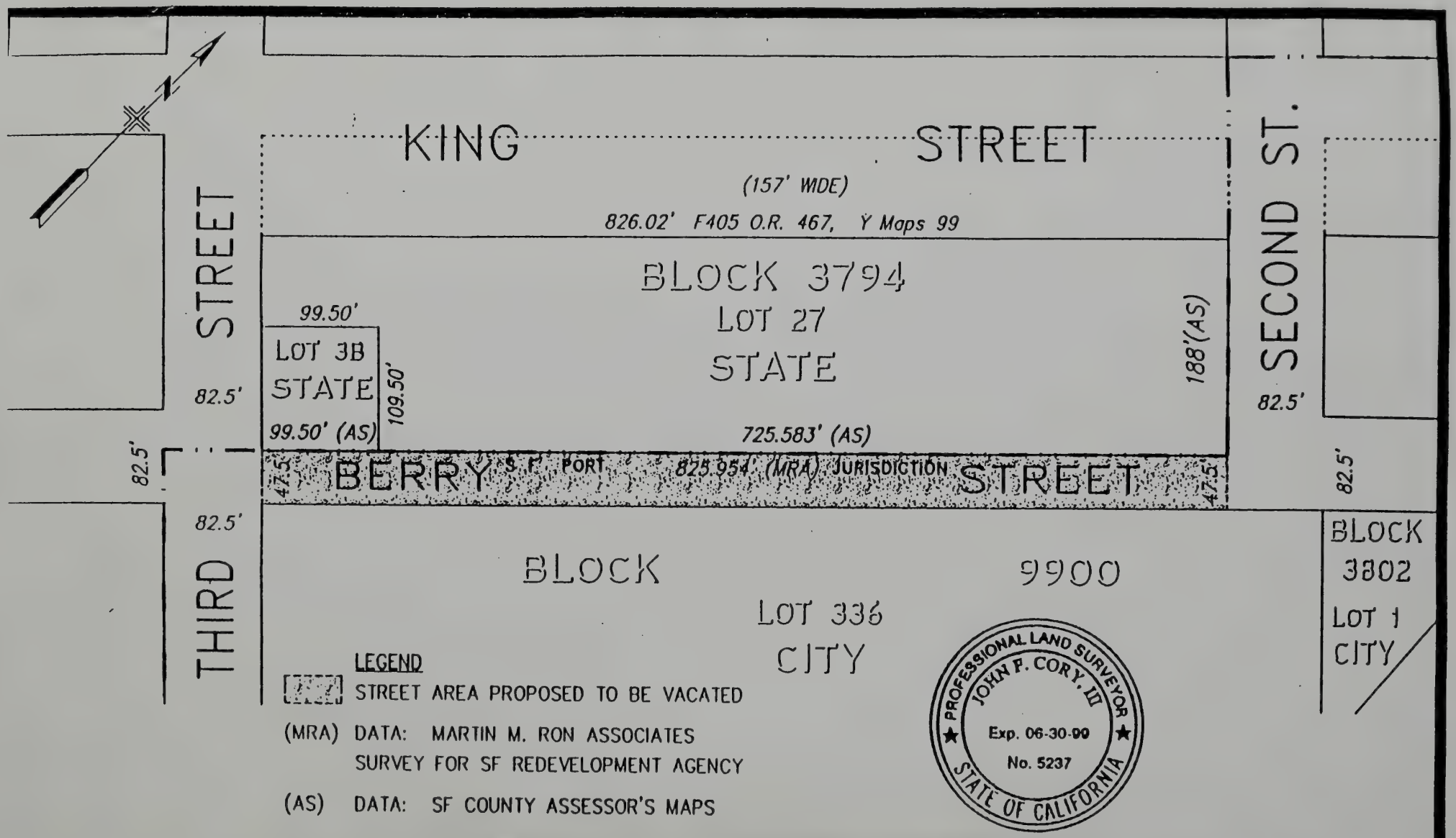

	BY	DATE
DR.	AMN	6/09/97
TR.		
CK.	CY ML	6/9/97

CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF PUBLIC WORKS

PROPOSED VACATION OF BERRY STREET BETWEEN SECOND AND THIRD STREETS.

APPROVED 6/ /97 | SCALE 1" = 120' | FILE | CHANGE

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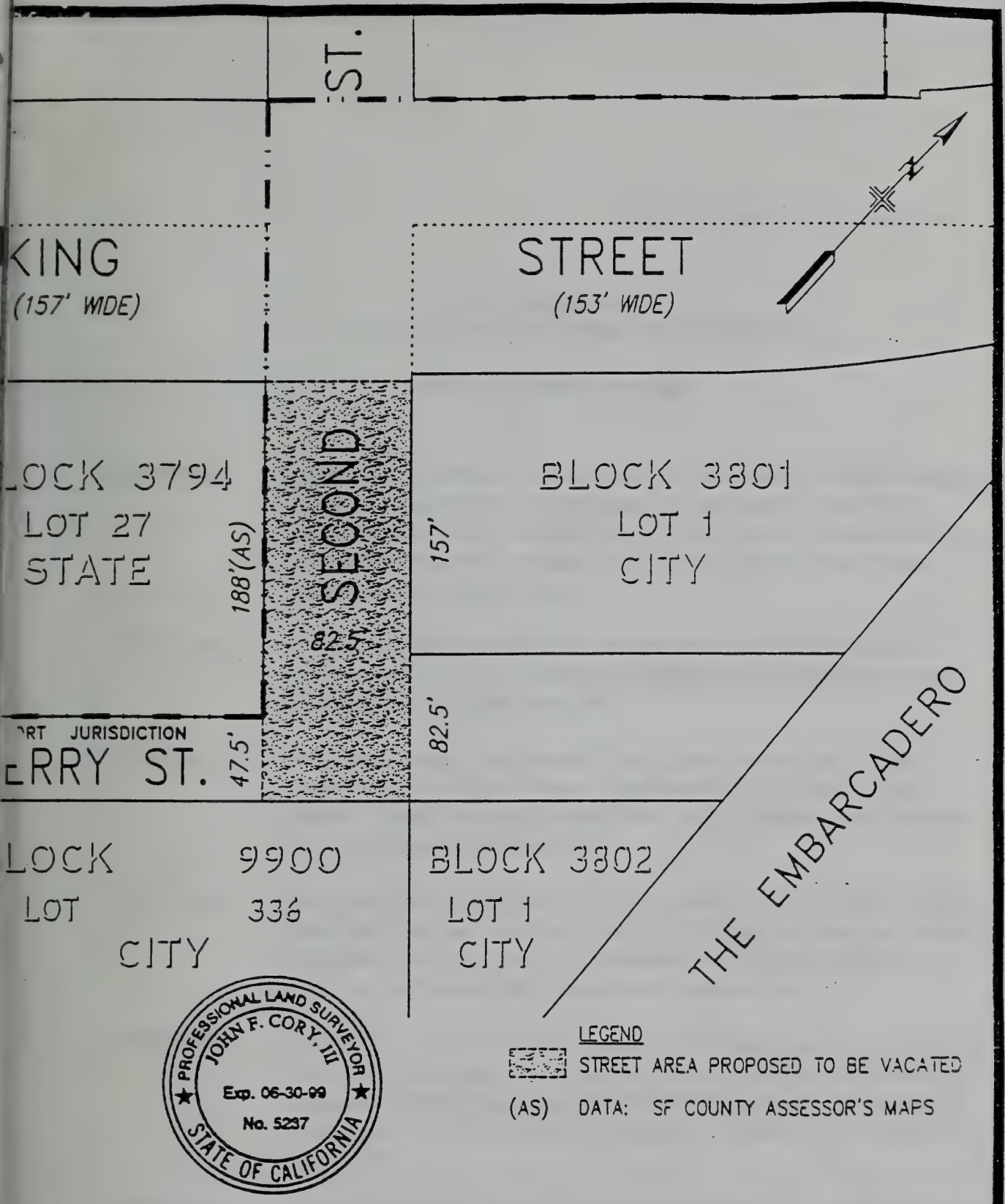

	BY	DATE
.	AMN	6/09/97
:		
.	VML	6/9/97
3.		
2.		

CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF PUBLIC WORKS

PROPOSED VACATION OF A PORTION OF SECOND STREET BETWEEN KING AND BERRY STS.

APPROVED 6-11-97
BY: John Cory
DATE CHIEF SURVEYOR/CITY ENGINEER

SCALE 1" = 80'
SHEET 1
OF 1 SHEETS

FILE SUR 596

CHANGE

FILE: BALLPARK.DWG-VIEW P2

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 97-60

WHEREAS, On March 26, 1996, the voters of the City and County of San Francisco approved Proposition B, which made certain changes to the City's zoning laws to allow a new ballpark to be developed at China Basin on a site bounded generally by King Street, Second Street, China Basin Channel and Third Street; and,

WHEREAS, In order to fulfill the purpose of Proposition B and to develop the proposed ballpark, it is necessary to vacate certain street areas located within the site at China Basin; and,

WHEREAS, The general location and extent of such street areas to be vacated (collectively, the "Street Areas") are described as (i) Berry Street between Third Street and Second Street and (ii) Second Street between King Street and Berry Street; and,

WHEREAS, The Street Areas are shown in the Department of Public Works' SUR Maps Nos. 496 and 596, dated June 11, 1997 and are more particularly described in the legal descriptions attached to such maps, copies of which are on file with the Commission Secretary; and,

WHEREAS, On March 25, 1997, the San Francisco Port Commission, by Resolution No. 97-26, authorized the Executive Director of the Port to submit an application to the Department of Public Works to begin the process of vacating the street areas, and the Executive Director did so on April 16, 1997; and,

WHEREAS, On June 9, 1997, the Board of Supervisors introduced a Resolution of Intent to Vacate the Street Areas (File No. 164-97-3) and an ordinance (File No. 164-97-3.1) ordering the vacation, copies of which are on file with the Commission Secretary; and,

WHEREAS, On June 23, 1997, the Board of Supervisors approved the Resolution of Intent to Vacate and set a July 14, 1997 hearing date; and,

WHEREAS, On June 26, 1997, the Planning Commission and the San Francisco Redevelopment Agency Commission reviewed and considered the Final Environmental Impact Report ("FEIR") and, by Motion No. 14398 and Resolution No. 97-97, respectively, found that the FEIR was adequate, accurate and objective, reflected the independent judgement of each Commission and that the Summary of Comments and Responses contained no significant revisions to the Draft Environmental Impact Report, adopted findings of significant impacts associated with the Project and certified the completion of the FEIR for the Project in compliance with CEQA and the CEQA Guidelines; and,

WHEREAS, The Port Commission has reviewed and considered the information contained in the FEIR; and,

WHEREAS, By Resolution No. 97-53, the Port Commission has found that the vacation of the Street Areas is part of the ballpark project for purposes of compliance with CEQA and adopted findings with respect to the FEIR and, as required by CEQA, which findings are incorporated herein by this reference; and,

WHEREAS, The Board of Supervisors will consider the proposed ordinance for the vacation of the Street Areas on July 14, 1997; and,

WHEREAS, The Port, in coordination with the Redevelopment Agency of the City and County of San Francisco, will take measures to provide adequate vehicular and pedestrian access to the tenants of the South Beach Marina and the adjacent ILWU building during and after construction of the ballpark; now, therefore, be it

RESOLVED, That the Port Commission hereby approves and confirms the vacation of the Street Areas, as described in the maps and legal descriptions attached to the form of the Board of Supervisors Ordinance, a copy of which is on file with the Commission Secretary; and, be it further

RESOLVED, That the vacation of the Street Areas shall be conditioned upon, and shall not become effective unless and until (i) the Port Commission and the China Basin Ballpark Company LLC ("CBBC") enter into a Lease Disposition and Development Agreement for development of the ballpark by CBBC at the China Basin site, (ii) the amendments to the General Plan, which are on file with the Clerk of the Board of Supervisors in File No. 271-97-5 become effective, and (iii) the Port Commission acquires

title from the State of California, Department of Transportation to the property described generally as Assessor's Block 3794, Lots 3B and 27; and, be it further

RESOLVED, That the Port Commission approves, confirms and ratifies all prior actions taken by the officials, employees and agents of the City including the Port, with respect to the vacation of the Street Areas.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of July 16, 1997.

_____
Secretary

F:\COMMSN\GIANTS\STREET.VAC

PORT OF SAN FRANCISCO

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MEMORANDUM

July 10, 1997

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Denise McCarthy, Vice President
Hon. Frankie G. Lee
Hon. James Herman

FROM: Douglas F. Wong
Executive Director

SUBJECT: Ballpark Ferry Service

DIRECTOR'S RECOMMENDATION: AUTHORIZING STAFF TO ISSUE A REQUEST FOR PROPOSALS ("RFP") TO SELECT AN OPERATOR TO FINANCE, BUILD AND OPERATE A FERRY LANDING FACILITY AT CHINA BASIN.

Introduction

The Port of San Francisco and the San Francisco Giants are committed to providing ferry service to the proposed Pacific Bell Ballpark at China Basin. To accomplish this goal Port staff has been actively discussing this issue with the Giants and other government entities. Issues currently under consideration include the design, financing, construction and operation of the ferry landing facilities. The purpose of this memorandum is to brief the Commission on the current status of these efforts and to request authorization to issue a request for proposals ("RFP") for an operator to finance, build and operate the facility.

Potential Alternatives

Port staff has extensively researched a number of alternatives to providing the ferry facilities. These efforts have included (1) substantive discussions with the U.S. Department of Transportation, Federal Highway Administration, Caltrans, Metropolitan Transportation Commission and San Francisco Transportation Authority concerning the availability of public funding to build a ferry facility ; (2) discussions with ferry boat operators concerning the feasibility and interest in awarding a private operator a contract to build and operate a ferry landing; (3) exploration with the Giants into the possibility of their building a facility as part of the stadium project lease and then subleasing the facility to an operator for ferry service to baseball games; and (4) staff analysis of financing a

public ferry facility that could serve both the ballpark and the greater Mission Bay area which could be located south of the China Basin Channel. An overriding priority in all of these discussions is to provide ferry service by April, 2000.

Initially, staff discussed requiring the China Basin Ballpark Company (the Giants) to build the facility and negotiate and enter into a sublease with a ferry operator to operate the ferry landing facility adjacent to the proposed ballpark. However, as these discussions developed, staff recognized the potential opportunity to utilize the facility for a wider range of public trust and Waterfront Land Use Plan implementation activities than just the ballpark including commuter service and excursions. Accordingly, in order to promote the widest range of trust uses and possibly realize the revenue from these operations, the Port believes it should pursue this opportunity. It is recognized, however, that the Giants share the Port's interest in securing reliable service to the ballpark, and that the possibility of a sublease between the Giants and a ferry operator may be revisited in the future.

Commercial Ferry Facility

Port staff has concluded that the best approach to providing viable ferry service to South Beach and the new ballpark by April, 2000 is to establish a commercial ferry facility located adjacent to China Basin Ballpark. The Ground Lease which has been negotiated with the Giants reserves to the Port rights of access over the Waterfront Promenade for the construction and operation of those facilities. Port staff requests authorization to solicit proposals and negotiate a lease agreement with a commercial ferry operator to design, build and operate a ferry terminal adjacent to the ballpark under a long term (ten to fifteen year) lease.

Under the proposed solicitation, the successful ferry operator would be responsible for investing the necessary capital to develop the berthing facilities and would operate the facilities as a private terminal. The operator would control the ferry berth on a full time basis, although the lease could include provisions requiring that other excursion operators be allowed access to the facility for services the operator chooses not to provide. A number of local ferry operators have expressed interest in obtaining the right to operate this ferry facility. We believe that the facility could be completed and ready for service by the time the ballpark is scheduled for completion in April, 2000.

Publicly Funded Facility

Concurrent with issuance of an RFP for a commercial operator to build and operate the facility, the Port, with assistance from the Giants, is intending to continue its efforts to identify and secure public sources of funding for a ferry terminal. However, these efforts are more problematic than a commercial facility because the ballpark as a stand alone project would not be competitive (or in some cases eligible) for the transportation funding sources which are usually relied upon to fund these types of projects. It is more likely that these efforts will be successful in securing future funding for a "South Beach / Mission Bay" ferry terminal located south of the China Basin Channel that would serve the

ballpark and the South Beach area, Mission Bay and, most notably, the future campus of UCSF in Mission Bay. This project would require additional time to investigate, plan and design, but could be pursued cooperatively by the Port, Redevelopment Agency, Giants and Catellus. In the meantime, Port staff believes that a facility located at the ballpark will serve the needs of the ballpark, UCSF and Mission Bay over the next ten to fifteen years.

Once the timing of UCSF and Mission Bay is more certain, the Port will be better situated to decide on the need for a second, publicly funded, facility located further south on the waterfront. The main issues associated with a ferry facility south of China Basin Channel relate to the level of non-ballpark related ferry ridership and the appropriate timing of the project, given the lengthy public funding process. For example, it is not unusual for a project to be repeatedly proposed for inclusion in federal surface transportation funding programs before project funding is actually approved. Moreover, the ridership necessary to justify this type of expenditure may not be realized for 10 years or more. Due to the timing of these other projects and availability of funding, it is unlikely that the project could be completed by the time the ballpark is scheduled to be completed in April, 2000.

Design

The San Francisco Giants retained the coastal engineering firm of Moffat and Nichol to prepare a conceptual engineering report for a two berth ferry dock at the southeastern corner of the proposed ballpark, along the northern shore of China Basin Channel. The conceptual design identifies two potential layouts for a ferry landing facility at this location. The Port has reviewed the conceptual engineering report, and based upon its extensive experience in designing ferry berthing facilities during the past five years, most notably near the Ferry Building, believes either of the proposed locations would provide for an outstanding ferry facility. In conjunction with preparation of an RFP staff intends to review these designs in greater detail to resolve issues relating to disability access, navigation, minimizing future dredging requirements and the best use of the PortWalk promenade to maximize public access, passenger queuing and general circulation demands.

Conclusion

Port staff requests authorization to issue a solicitation for a commercial ferry boat operator to finance, develop and operate a two berth ferry landing facility adjacent to the proposed ballpark. The RFP will be issued in the fall of 1997 and an operator selected and a lease agreement negotiated by mid-1998. If for some reason this effort is unsuccessful, the Port will proceed with a feasibility study for a South Beach / Mission Bay ferry terminal located south of China Basin Channel. Public funding for this project would be sought from federal and state surface transportation funding sources. Depending on the size, location and cost of the terminal, it could take a number of years to secure adequate funding for the project.

Prepared by: Paul Osmundson, Director of Planning & Development

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 97-61

WHEREAS, The Port of San Francisco and the San Francisco Giants are committed to providing ferry service to the proposed Pacific Bell Ballpark at China Basin. To accomplish this goal Port staff has been actively discussing this issue with the Giants and other government entities; and

WHEREAS, Port staff has concluded that the best approach to providing viable ferry service to South Beach and the new ballpark by April, 2000 is to establish a commercial ferry facility located adjacent to the ballpark at China Basin; and,

WHEREAS, Port staff has extensively researched a number of alternatives to providing the ferry facilities; and

WHEREAS, Staff recognizes a potential opportunity to utilize a ferry landing facility at China Basin for a wider range of public trust and Waterfront Land Use Plan implementation activities than just the ballpark, including commuter service and excursions; and,

WHEREAS, In order to promote the widest range of trust uses and realize the possible revenue from these operations, Port staff believes the Port should pursue this opportunity; and

WHEREAS, Port staff requests authorization to solicit proposals and negotiate a lease agreement with a commercial ferry operator to design, build and operate a ferry terminal adjacent to the ballpark under a long term (ten to fifteen year) lease; and,

WHEREAS, Under the proposed solicitation, the successful ferry operator would be responsible for investing the necessary capital to develop the berthing facilities and would operate the facilities as a private terminal. The operator would control the ferry berth on a full time basis, although the lease could include provisions requiring that other excursion operators be allowed access to the facility for services the operator chooses not to provide; and,

WHEREAS, A number of local ferry operators have expressed interest in obtaining the right to operate this ferry facility; and, now, therefore, be it

RESOLVED Port staff is authorized to issue a Request For Proposals in the fall of 1997, or before, for a commercial ferry boat operator to finance, develop and operate a two berth ferry landing facility adjacent to the proposed ballpark; and, be it further

RESOLVED That staff is directed to select an operator and negotiate a lease agreement by mid-1998.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of July 16, 1997.

_____
Secretary

F:\COMMSN\GIANTS\FERRY.RES

GROUND LEASE

DRAFT OF JULY 10, 1997

CITY AND COUNTY OF SAN FRANCISCO
WILLIE LEWIS BROWN, JR., MAYOR

GROUND LEASE

between the

CITY AND COUNTY OF SAN FRANCISCO,
THROUGH THE SAN FRANCISCO PORT COMMISSION

Landlord

and

CHINA BASIN BALLPARK COMPANY LLC

Tenant

for the lease of real property
including Piers 46B and 46C, Seawall Lot 336
and Assessor's Block 3794, Lots 3B and 27
for development and use of an open-air ballpark and complementary improvements

Dated as of _____, 1997

Douglas F. Wong
Executive Director

SAN FRANCISCO PORT COMMISSION

Michael Hardeman, President
Denise McCarthy, Vice President
James R. Herman, Commissioner
Frankie G. Lee, Commissioner

DRAFT OF JULY 10, 1997

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DRAFT OF JULY 10, 1997

GROUND LEASE

THIS GROUND LEASE (this "Lease"), dated for reference purposes as of _____, 1997, is by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (the "City"), operating by and through the SAN FRANCISCO PORT COMMISSION ("Landlord") and CHINA BASIN BALLPARK COMPANY LLC, a Delaware limited liability company ("Tenant"). All initially capitalized terms used herein are defined in Section 47 or have the meanings given them when first defined.

THIS LEASE IS MADE WITH REFERENCE TO THE FOLLOWING FACTS AND CIRCUMSTANCES:

A. On March 26, 1996, the voters of the City approved Proposition B, which amended the City's zoning laws to allow a new ballpark for the San Francisco Giants to be built at China Basin. The purpose of this Lease is to implement the policies and intent of Proposition B. This Lease provides for a ground lease of the Property (as described in Section 1.1 below) for the private development by Tenant of a new open-air waterfront Ballpark to exhibit Major League Baseball games of the San Francisco Giants, together with complementary retail and commercial space and certain adjoining public access improvements, including a Waterfront Promenade along the northern edge of the China Basin Channel connecting the Embarcadero promenade (Herb Caen Way) with Third Street, adjacent to the Lefty O'Doul Bridge (collectively, the Property, the Ballpark and all other Improvements now or hereafter constructed on the Property, are referred to in this Lease as the "Premises").

B. The presence and conduct of Major League Baseball in the City provides recreational opportunities for the residents of the City in the form of spectator sports, stimulates direct and indirect economic activity in the City, enhances the quality of life for San Franciscans and provides other substantial intangible benefits to the City and its residents.

C. The Property, which the voters approved as the location for the Ballpark under Proposition B, has special importance to the City, including its Port. This importance is attributable, among other things, to: (i) the Property's waterfront location; (ii) the nature of the Improvements and uses contemplated for the Property, which will expand and enhance public enjoyment and access to the San Francisco Bay by bringing people of all ages to a place of public assembly and recreation adjacent to the shoreline at China Basin, and will provide unique vistas and overviews of the Bay and the City; (iii) the Property's close proximity to the City's downtown and a variety of public transportation services; (iv) the relationship of the Property under the Port's Waterfront Plan to the South Beach/China Basin Waterfront area; and (v) the relationship of the Property under the Rincon Point-South Beach Redevelopment Plan to the South Beach Subarea, including South Beach Marina and South Beach Park, and other land within such Project Area which the Port leases to the Redevelopment Agency. Accordingly, this Lease makes particular provision to assure the excellence and integrity of design and

construction, availability of portions of the Project for public access amenities, and management and control necessary and appropriate for a first-class, state-of-the-art sports and entertainment development serving San Franciscans and visitors to the City and enhancing public access to, view and enjoyment of the China Basin Channel, South Beach Marina and the Bay beyond, and the Port's waterfront property.

D. Pursuant to a Lease Disposition and Development Agreement (the "DDA") by and between Landlord and Tenant dated as of _____, 1997 and recorded in the Official Records on _____, 1997 as Instrument No. _____ in Book ___ at Page ___, Landlord agreed to lease the Property to Tenant, and Tenant agreed to lease the Property from Landlord, upon satisfaction of certain conditions precedent contained in the DDA. By their execution and delivery of this Lease, the Parties acknowledge that such conditions precedent have been satisfied or waived.

E. The lease of the Property, the construction, development and operation of the Ballpark and other Improvements pursuant to the terms and conditions of this Lease and the DDA (described below), and the fulfillment generally of the transactions which this Lease contemplates: (i) are in the best interests of the City, including its Port; (ii) ensure a fair market return to Landlord for the use of its property; (iii) are in accord with the public purposes and provisions of applicable Laws, including, but not limited to, restrictions which are or may become applicable to uses of the Property under the Tidelands Trust, including the Burton Act; (iv) will result in the Remediation by Tenant of Hazardous Materials existing in, on and under the Property for the contemplated uses in accordance with applicable regulatory requirements; (v) provide for development of a comprehensive transportation management plan that will include, but will not be limited to, measures to encourage the use of public transit by ballpark patrons and employees and to manage traffic routing for games, and that will be implemented by a specially-formed ballpark transportation coordinating committee comprised of representatives of Tenant, the City, including its Port, public transit providers, and the community; (vi) will provide opportunities for the efficient use of existing parking resources and will not locate any permanent parking areas for the Ballpark on piers; (vii) will include site design, public access improvements, and architectural treatments for the Project which are oriented to the Bay; (viii) will attract many visitors to the waterfront and promote opportunities for restaurants, entertainment and Bay-oriented commercial recreation activities in the surrounding area before and after baseball games and other permitted events; and (ix) are in furtherance of the implementation of the land use regulations which are applicable to the Site, including the City's General Plan, Special Area Plan and Planning Code, the Port's Waterfront Plan and the Rincon Point-South Beach Redevelopment Plan.

F. Tenant was organized by the Team Owner, which holds the professional baseball franchise for the San Francisco Giants, for the purpose of leasing the Premises and financing, developing and operating the Project. Team Owner holds a controlling interest in Tenant.

G. Landlord is the fee owner of the Property, as trustee under the Tidelands Trust, and will retain such sole title and ownership of the Property at all times under this Lease.

H. The Property is subject to the Redevelopment Plan for the Rincon Point-South Beach Project Area. In furtherance of the implementation of the Redevelopment Plan and the development of the Project, Tenant and the Redevelopment Agency have entered into an Owner Participation Agreement (the "OPA"), which Landlord has approved. Subject to the terms and conditions of the OPA, the Redevelopment Agency will use its best efforts to issue Tax Allocation Bonds in an amount sufficient to generate up to $15 million in proceeds to finance development of certain infrastructure improvements that will support the Ballpark, including the Waterfront Promenade and other public improvements. No proceeds of the Tax Allocation Bonds will be made available to Tenant for the Project beyond the capacity of the property or possessory interest tax increment generated from the development of the Property to pay debt service on such bonds. In this way, no tax increment will be drawn for the Project from other redevelopment project areas or from other development projects in the Project Area.

I. As an essential inducement for the City to lease the Property to Tenant and to approve the transactions contemplated by this Lease and the DDA and the allocation of tax increment needed for the Redevelopment Agency's issuance of the Tax Allocation Bonds, the Team Owner has agreed for the benefit of the City to enter into (i) a Non-Relocation Agreement, whereby the Team Owner agrees to cause the Team to play its Baseball Home Games at the Ballpark from Completion of the Ballpark through the end of the Initial Term of this Lease, on the terms and conditions in such Non-Relocation Agreement and the Baseball Sublease, and (ii) a Guaranty, whereby the Team Owner agrees to guarantee certain obligations of Tenant to Landlord and the Redevelopment Agency upon the occurrence of certain enforcement events, including a breach of the Non-Relocation Agreement, as more fully set forth in such Guaranty.

ACCORDINGLY, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

SECTION 1. PREMISES; TERM

1.1 Premises.

(a) Lease of Premises; Description. For the Rent and subject to the terms and conditions of this Lease, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the real property in the City and County of San Francisco, California, bounded generally by the easterly line of Third Street, the southerly line of King Street, the easterly line of Second Street, and the China Basin Channel, as more particularly described in Exhibit A attached hereto (the "Property"), together with all rights, privileges and licenses appurtenant to the Property and owned by Landlord. The Property is comprised of approximately 544,858 square feet (12.5 acres) of land, and is shown generally on the Site Plan attached hereto as Exhibit B. The Property includes the Waterfront Promenade Parcel (including the pier and pier substructure

supporting the Waterfront Promenade) described in Exhibit A. The Property also includes all existing buildings, structures and substructures affixed to the land, but Tenant will demolish and remove most of the existing buildings in connection with the development of the Ballpark and other Improvements under the DDA.

(b) Access Rights.

(i) Landlord hereby grants to Tenant a non-exclusive easement appurtenant to the Property, limited in duration to the Term of this Lease and any Demolition Period under Section 34.2, in and over certain real property located east of the easterly line of Second Street, as more particularly described in Exhibit A-1 (the "Park Access Parcel"), for purposes of pedestrian and vehicular access, ingress and egress in connection with the uses permitted under this Lease. In addition, Landlord consents to the grant to Tenant by the Redevelopment Agency, pursuant to the OPA, of a non-exclusive easement (during the Term of this Lease and any Demolition Period under Section 34.2) in and over the Park Access Parcel for purposes of pedestrian and vehicular access, ingress and egress in connection with the uses permitted under this Lease. The Park Access Parcel is owned by Landlord, in trust, and is leased to the Redevelopment Agency under the lease for South Beach Park.

(ii) Landlord hereby grants to Tenant a non-exclusive easement appurtenant to the Property, limited in duration to the Term of this Lease and any Demolition Period under Section 34.2, in and over the waters of the China Basin Channel and in Landlord's retained trust lands beneath and adjacent to the Waterfront Promenade Parcel (the "Channel Access Parcel") for purposes of access to the Waterfront Promenade Parcel, and for maintenance, repair and replacement of the Improvements. In addition, Landlord hereby grants to Tenant, during the Term of this Lease, an easement, appurtenant to the Property, for support for the Waterfront Promenade and other Improvements located (or to be located) on the Waterfront Promenade Parcel, in the Channel Access Parcel and in Landlord's retained lands adjacent to the Waterfront Promenade Parcel, including the right (subject to compliance with Sections 6 and 10) to install additional pilings or other structures in the Channel Access Parcel beneath the Waterfront Promenade. With respect to such right of support, Landlord shall have no obligation to maintain, repair, replace or restore the pier or pier substructure, or to install any additional pilings or other structures or substructures which may be necessary or appropriate to support Tenant's Improvements. Additional terms and conditions governing Tenant's use of the easements and rights granted in this Section 1.1(b) (collectively, the "Access Rights") are set forth in Section 36.

(c) Permitted Title Exceptions. The interests granted by Landlord to Tenant pursuant to Subsections 1.1(a) and (b) are subject to (i) the matters reflected in Exhibit D (the "Permitted Title Exceptions"), and (ii) such other matters as Tenant shall cause or suffer to arise subject to the terms and conditions of this Lease.

(d) Subsurface Mineral Rights. Under the terms and conditions of Section 2 of the Burton Act, the State of California ("State") has reserved all subsurface mineral deposits, including oil and gas deposits, on or underlying the Property. In accordance with the provisions of Sections 2 and 3.5(c) of the Burton Act, Tenant and Landlord hereby acknowledge that the State has reserved the right to explore, drill for and extract such subsurface minerals, including oil and gas deposits, solely from a point of entry outside the Property **[described as Zone _____, beginning at a point where X equals and Y equals _____, extending 500 feet south, thence 500 feet east, thence 500 feet north, and thence 500 feet west, ending at such point of beginning]**, provided that such right shall not be exercised so as to disturb or otherwise interfere with the Leasehold Estate, including the ability of the Property or the Channel Access Parcel to support the Improvements. Landlord shall have no liability under this Lease arising out of any exercise by the State of such mineral rights (unless the State has succeeded to Landlord's interest under this Lease, in which case such successor owner may have such liability).

(e) "AS-IS WITH ALL FAULTS". TENANT AGREES THAT THE PREMISES ARE BEING LEASED BY LANDLORD, AND ARE HEREBY ACCEPTED BY TENANT, IN THEIR EXISTING STATE AND CONDITION, "AS IS, WITH ALL FAULTS". TENANT ACKNOWLEDGES AND AGREES THAT NEITHER LANDLORD NOR ANY OF THE OTHER INDEMNIFIED PARTIES, NOR ANY AGENT OF ANY OF THEM, HAS MADE, AND THERE IS HEREBY DISCLAIMED, ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, OF ANY KIND, WITH RESPECT TO THE CONDITION OF THE PREMISES OR THE ACCESS PARCELS, THE SUITABILITY OR FITNESS OF THE PREMISES OR ANY APPURTENANCES THERETO (INCLUDING THE ACCESS RIGHTS) FOR THE DEVELOPMENT, USE OR OPERATION OF THE PROJECT, THE COMPLIANCE OF THE PREMISES OR THE PROJECT WITH ANY LAWS, ANY MATTER AFFECTING THE USE, VALUE, OCCUPANCY OR ENJOYMENT OF THE PREMISES, OR, EXCEPT AS MAY BE SPECIFICALLY PROVIDED IN THIS LEASE OR THE DDA, WITH RESPECT TO ANY OTHER MATTER PERTAINING TO THE PREMISES OR THE PROJECT OR ANY APPURTENANCES TO THE PREMISES.

(f) Ferry Landing Facilities. Landlord and Tenant have agreed, as set forth in Section 37, to cooperate in planning the development of Ferry Landing Facilities in China Basin Channel adjacent to the Property. If the Parties should agree in the future that the Ferry Landing Facilities are to be operated by Tenant or a Subtenant as part of the Premises, the real property containing the Ferry Landing Facilities (or the contemplated Ferry Landing Facilities, as applicable) will be added to the legal description of the Premises set forth in Exhibit A by an appropriate written instrument executed and acknowledged by the Parties. Landlord hereby reserves such rights of access in, under and over, and of attachment to, the Waterfront Promenade as may be reasonably necessary or appropriate for the construction and operation of the Ferry Landing Facilities, which access and other rights shall be more specifically identified and located in an appropriate instrument executed and acknowledged by the Parties at such time as the specific plans for the development of the Ferry Landing Facilities have been

agreed upon by the Parties. Landlord shall utilize such rights in such a manner as to minimize interference with Tenant's construction of the Improvements under this Lease and the DDA and its use and operation of the Premises under this Lease.

1.2 Term.

(a) Initial Term. The Term of this Lease shall commence on the date Landlord delivers possession of the Property to Tenant in accordance with the DDA (the "Commencement Date"). Subject to Tenant's extension rights as set forth in Section 1.2(b), the Term of this Lease shall expire on December 31, 2022, unless earlier terminated in accordance with the terms of this Lease. The period from the Commencement Date until such expiration date is sometimes referred to as the "Initial Term." Following the delivery of possession of the Property to Tenant, the Parties shall execute and deliver a memorandum confirming the date on which the Commencement Date occurred, provided that failure of the Parties to execute such memorandum shall not delay or modify the Commencement Date or affect the rights or obligations of the Parties under this Lease.

(b) Options to Extend. At its option, Tenant may extend the Initial Term of this Lease in accordance with all the provisions of this Lease for eight (8) additional successive periods (each, an "Extended Term"). The first seven (7) Extended Terms shall be for successive periods of five (5) years each. The last Extended Term shall be for a period of six (6) years after the expiration of the seventh Extended Term. Tenant may exercise such rights to extend (each such, an "Option") by giving written notice to Landlord of the exercise of the Option ("Option Notice") as follows: (1) for the first Extended Term, Tenant must give its Option Notice on or before December 31, 2020; (2) for each subsequent Extended Term other than the fifth Extended Term, Tenant must give its Option Notice not later than one (1) year prior to the expiration date of the then-current Extended Term; and (3) for the fifth Extended Term, Tenant must give its Option Notice not later than two (2) years prior to the expiration date of the fourth Extended Term. Subject to the provisions of Section 16, Tenant may transfer the remaining Options to a transferee of its entire interest in this Lease. In addition, Tenant may at any time, or from time to time, assign the Options, or any of them, as additional security for any Mortgage permitted under Section 42, and Landlord shall recognize any Option exercised by a Mortgagee in accordance with the provisions of this Lease. Time is of the essence with respect to the date of delivery for each and every Option Notice. Landlord recognizes, however, that Tenant will invest a significant sum in the construction of the Improvements, and that an inadvertent failure to deliver such notice could result in a forfeiture of Tenant's interest. Landlord therefore agrees that if the time for delivering the Option Notice for either the first Extended Term or the fifth Extended Term has expired, and no such Option Notice has been given, Tenant may nevertheless cure such failure by delivering a delinquent Option Notice, prior to, or within five (5) business days following a written notice from Landlord specifying that the right to give a delinquent Option Notice will expire unless such notice is given within such five (5) business day period. In any event, Tenant must give Option Notice for the first Extended Term at least one year before the expiration of the Initial Term and for the fifth Extended Term at

least one year before the expiration of the fourth Extended Term. The existence of any cure rights granted under Section 22 shall not extend the dates specified in this Section for the delivery of any Option Notice. Tenant's failure to deliver a delinquent Option Notice, or otherwise to exercise an Option for any Extended Term as specified in this Section shall cause the termination of the Options for such Extended Term and for any and all subsequent Extended Terms, subject only to the rights of Mortgagees under Section 42 of this Lease.

(c) Term. The Initial Term as it may be extended in accordance with the provisions of subsection (b) above is referred to as the "Term". Tenant's possession of the Premises during any Extended Term shall be upon all of the terms and conditions of this Lease, except that Minimum Rent shall be adjusted at the beginning of the first and fifth Extended Terms as specified in Section 2.5, and at the beginning of the other Extended Terms as specified in Section 2.7. Notwithstanding anything to the contrary contained in this Lease, the maximum Term of this Lease shall not exceed sixty-six (66) years from the Commencement Date.

1.3 Definitions.

All initially capitalized terms used herein are defined in Section 47 or have the meanings given them when first defined.

1.4 Relationship of Lease to DDA.

This Lease describes the rights and obligations of Tenant and Landlord during the Term, provided that this Lease shall be subject to the provisions of the DDA until the Completion of the Improvements by Tenant in accordance with the DDA. Until Completion, the DDA will govern the development of the Initial Improvements in the event of any inconsistency between this Lease and the DDA. From and after Completion, this Lease will govern the rights and obligations of the Parties with respect to the Premises. The recordation of a Certificate of Completion under the DDA shall conclusively establish, for the purposes of this Lease, that all requirements of the DDA relating to the construction and completion of the Improvements have been waived or satisfied, and that the DDA is no longer applicable. If at such time, there exist any Deferred Items (as defined in the DDA), Tenant shall be responsible under this Lease for completing such Deferred Items in a timely and workerlike fashion, and Landlord agrees, upon satisfactory completion of such work, to release in accordance with Tenant's instructions any security deposited in escrow or with Landlord under the DDA. The Parties acknowledge that any and all provisions contained in the DDA which the Parties intend to have continuing application following the recordation of a Certificate of Completion have been inserted by the Parties into this Lease as well, and that following recordation of a Certificate of Completion, no Person shall be deemed to have notice of any matter relating to the Property by virtue of the filing or recordation of the DDA in the Official Records.

SECTION 2. RENT

2.1 Tenant's Covenant to Pay Rent.

During the Term of this Lease, Tenant shall pay Rent for the Premises to Landlord at the times and in the manner provided in this Section 2.

2.2 Rent Definitions.

The following terms shall be defined as set forth below.

"Adjustment Period" means a period for which Minimum Rent may be adjusted to reflect changes in the Index pursuant to either Section 2.4 or Section 2.7.

"Index" means the Consumer Price Index for All Urban Consumers (base years 1982-1984 = 100) for the San Francisco-Oakland-San Jose area, published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is modified during the Term hereof, the modified Index shall be used in place of the original Index. If compilation or publication of the Index is discontinued during the Term, Landlord shall select another similar published index, generally reflective of increases in the cost of living, subject to Tenant's approval, which shall not be unreasonably withheld or delayed, in order to obtain substantially the same result as would be obtained if the Index had not been discontinued.

"Minimum Rent" means the annual minimum rent specified in Section 2.3, as adjusted from time to time pursuant to the provisions of this Lease.

"Rent" means the sum of Minimum Rent and Additional Rent. For purposes of this Lease, Rent includes all unpaid sums that are payable as Rent, but that are unpaid when earned or accrue for payment at a later time in accordance with the provisions of this Lease.

2.3 Minimum Rent.

Tenant shall pay to Landlord, as Minimum Rent, the annual sum of One Million Two Hundred Thousand Dollars ($1,200,000), subject to adjustment as provided in Section 2.4, Section 2.5 and Section 2.7, and subject to the Rent Credits provided for in Section 2.6. Minimum Rent shall be payable in advance, in equal quarterly installments beginning on the Commencement Date, and thereafter on or before the first day of each and every calendar quarter during the Term (each, a "Rent Payment Date"). In the event the Commencement Date occurs on a day other than the first day of a calendar quarter, or if the Term ends on a day other than the last day of a calendar quarter, then Minimum Rent for such fractional quarter shall be computed by dividing the annual Minimum Rent by 365 (or 366, if the

year in question is a leap year), and multiplying the per-diem rental rate so computed by the number of days in such fractional quarter.

2.4 CPI Adjustments to Minimum Rent During Initial Term.

(a) First CPI Adjustment. On April 1, 2003, the annual Minimum Rent specified in Section 2.3 shall be adjusted to the amount determined by multiplying the initial Minimum Rent by a factor (the "First Adjustment Factor") determined in the following manner:

(i) Determine the value of the Index as published for the month in which the Commencement Date occurred (the "Beginning Index").

(ii) Determine the value of the Index as published for the month of December, 2002 (the "December 2002 Index").

(iii) Compute the value of the fraction whose numerator is the December 2002 Index, and whose denominator is the Beginning Index (the "Tentative First Adjustment Factor").

(iv) If the Commencement Date does not occur on January 1, divide the number of months in the partial year in which the Commencement Date occurs (rounded up or down to the nearest whole number) by 12, multiply the result by 0.03, and add the number 1.00 (the "First Year Maximum ").

(v) Compute the value of the number $(1.03)^n$, where n is the number of full calendar years falling within that portion of the Term beginning on the Commencement Date and ending on December 31, 2002 (the "Annualized Maximum ").

(vi) Multiply the First Year Maximum by the Annualized Maximum (the "Maximum First Adjustment"). For example, if the Commencement Date occurs on October 20, 1997, the First Year Maximum would be 1.005, the Annualized Maximum would be 1.159274 (or 1.03^5), and the Maximum First Adjustment would be 1.16507.

(vii) Compare the Tentative First Adjustment Factor to the Maximum First Adjustment. The smaller of the two is the First Adjustment Factor. The First Adjustment Factor may be more or less than 1, but may not be more than the Maximum First Adjustment. The annual Minimum Rent during the three (3) year period (the "First Adjustment Period") beginning April 1, 2003 (the "First Adjustment Date") shall be the initial annual Minimum Rent, multiplied by the First Adjustment Factor, but shall not be less than $1,200,000 per year.

(b) Subsequent CPI Adjustments. On April 1, 2006 and on the first day of April in each third (3rd) year thereafter during the Initial Term (each a "Subsequent Adjustment Date", and together with the First Adjustment Date, each, an "Adjustment Date"), the annual Minimum Rent, as previously adjusted (but without regard to the effect of the $1,200,000 floor on Minimum Rent), shall be further adjusted for the forthcoming three-year period (each, a "Subsequent Adjustment Period", and together with the First Adjustment Period, each, an "Adjustment Period") to an amount determined under this Section 2.4(b). If there is no Carryforward or Negative Carryforward available from the previous Adjustment Period, Minimum Rent will be determined in accordance with the procedure described in Section 2.4(b)(i). There will be no Carryforward or Negative Carryforward available from the First Adjustment Period (i.e., available to be applied on April 1, 2006). If there is a Carryforward available from the previous Adjustment Period, Minimum Rent will be determined in accordance with the procedure described in Section 2.4(b)(ii). If there is a Negative Carryforward available from the previous Adjustment Period, Minimum Rent will be determined in accordance with the procedure described in Section 2.4(b)(iii).

(i) If there is no Carryforward or Negative Carryforward available from the previous Adjustment Period, Minimum Rent will be determined by multiplying the annual Minimum Rent then in effect (or if the Minimum Rent is then $1,200,000 due to the operation of the $1,200,000 floor on Minimum Rent, by the annual Minimum Rent which would have been payable for the previous Adjustment Period had such floor not been in effect) by a factor (each, an "Adjustment Factor") determined in the following manner:

(A) Determine the value of the Index for the month of December in the year immediately preceding the current Adjustment Date, and for the month of December three years earlier (each such, a "December Index Value"). For example, to compute the CPI adjustment in April, 2006, determine the December Index Value for December 2005 and December 2002. Compute the value of the fraction whose numerator is the December Index Value for the year immediately preceding the current Adjustment Date, and whose denominator is the December Index Value for the month of December three (3) years earlier (the "Tentative Adjustment Factor").

(B) Compare the Tentative Adjustment Factor to the number 1.157625 (the "Maximum Adjustment"), and to the number 0.857375 (the "Minimum Adjustment").

(C) If the Tentative Adjustment Factor is greater than or equal to 1.157625, the Adjustment Factor for the current Adjustment Period is 1.157625. In that case, multiply the annual Minimum Rent previously in effect by 1.157625, unless the annual Minimum Rent previously in effect was equal to $1,200,000 due to the operation of the $1,200,000 floor on Minimum Rent. In that case, multiply the Minimum Rent which would have been payable during the previous Adjustment Period (without regard to the operation of the $1,200,000 floor), by 1.157625. The resulting product is the Minimum Rent which will become

effective as of the current Adjustment Date, provided that in no event may Minimum Rent during the Initial Term be less than $1,200,000 per year. If the Tentative Adjustment Factor is greater than 1.157625, there will be a Carryforward available on the next Adjustment Date.

(D) If the Tentative Adjustment Factor is more than the Minimum Adjustment and less than the Maximum Adjustment, the Adjustment Factor for the current Adjustment Period is the Tentative Adjustment Factor. In that case, multiply the annual Minimum Rent previously in effect by the Tentative Adjustment Factor, unless the annual Minimum Rent previously in effect was equal to $1,200,000 due to the operation of the $1,200,000 floor on Minimum Rent. In that case, multiply the Minimum Rent which would have been payable during the previous Adjustment Period (without regard to the operation of the $1,200,000 floor) by the Tentative Adjustment Factor. The resulting product is the Minimum Rent which will become effective as of the current Adjustment Date, provided that in no event may Minimum Rent during the Initial Term be less than $1,200,000 per year. If the Tentative Adjustment Factor is more than the Minimum Adjustment and less than the Maximum Adjustment, there will be no Carryforward available on the next Adjustment Date.

(E) If the Tentative Adjustment Factor is less than or equal to 0.857375, the Adjustment Factor for the current Adjustment Period is 0.857375. In that case, multiply the annual Minimum Rent previously in effect by 0.857375. The resulting product is the Minimum Rent which will become effective as of the current Adjustment Date, provided that in no event may Minimum Rent during the Initial Term be less than $1,200,000 per year. If the Tentative Adjustment Factor is less than 0.857375, there will be a Negative Carryforward available on the next Adjustment Date.

(ii) If there is a Carryforward available from the previous Adjustment Period, Minimum Rent will be determined by multiplying the annual Minimum Rent then in effect (or if the Minimum Rent is then $1,200,000 due to the operation of the $1,200,000 floor on Minimum Rent, by the annual Minimum Rent which would have been payable for the previous Adjustment Period had such floor not been in effect) by an Adjustment Factor determined in the following manner:

(A) Determine the December Index Values for the month of December in the year immediately preceding the current Adjustment Date, and for the month of December three years earlier, and for the month of December six years earlier. For example, if the CPI adjustment in April, 2006 results in a Carryforward, then in April, 2009, determine the December Index Values for December 2008, December 2005 and December 2002. Compute the Tentative Adjustment Factor in the manner specified in Section 2.4(b)(i)(A). If the Tentative Adjustment Factor is greater than or equal to the Maximum Adjustment, the Carryover from the previous Adjustment Period will not be applied, and will expire. In that case, Minimum Rent will be adjusted in the manner specified in Section 2.4(b)(i), and there will be a Carryforward to the next Adjustment Period, but only because the current Tentative Adjustment Factor is greater than the Maximum Adjustment.

(B) If the Tentative Adjustment Factor is less than the Maximum Adjustment, compute the fraction whose numerator is the December Index Value for the year immediately preceding the current Adjustment Date, and whose denominator is the December Index Value for the month of December six (6) years earlier (the "Carryforward Adjustment Factor"). Compare the Carryforward Adjustment Factor to the number 1.340095 (the "Maximum Carryforward Adjustment"). Divide the lesser of the Carryforward Adjustment Factor and the Maximum Carryforward Adjustment, by the Maximum Adjustment (the resulting quotient, the "Tentative Carryforward Adjustment"). The lesser of the Tentative Carryforward Adjustment and the Maximum Adjustment is the Adjustment Factor. Multiply the annual Minimum Rent previously in effect by the Adjustment Factor. The resulting product is the Minimum Rent which will become effective as of the current Adjustment Date, provided that in no event may Minimum Rent during the Initial Term be less than $1,200,000 per year. Since the Tentative Adjustment Factor is less than the Maximum Adjustment, there can be no Carryforward to the next Adjustment Period. If the Tentative Adjustment Factor is also less than the Minimum Adjustment, there will be a Negative Carryforward to the next Adjustment Period. If the Tentative Adjustment Factor is greater than the Minimum Adjustment, there will be no Carryforward or Negative Carryforward to the next Adjustment Period.

(iii) If there is a Negative Carryforward available from the previous Adjustment Period, Minimum Rent will be determined by multiplying the annual Minimum Rent then in effect (or if the Minimum Rent is then $1,200,000 due to the operation of the $1,200,000 floor on Minimum Rent, by the annual Minimum Rent which would have been payable for the previous Adjustment Period had such floor not been in effect) by an Adjustment Factor determined in the following manner:

(A) Determine the December Index Values for the month of December in the year immediately preceding the current Adjustment Date, and for the month of December three years earlier, and for the month of December six years earlier. For example, if the CPI adjustment in April, 2006 results in a Negative Carryforward, then in April, 2009, determine the December Index Values for December 2008, December 2005 and December 2002. Compute the Tentative Adjustment Factor in the manner specified in Section 2.4(b)(i)(A). If the Tentative Adjustment Factor is less than or equal to the Minimum Adjustment, the Negative Carryover from the previous Adjustment Period will not be applied, and will expire. In that case, Minimum Rent will be adjusted in the manner specified in Section 2.4(b)(i), and there will be a Negative Carryforward to the next Adjustment Period, but only because the current Tentative Adjustment Factor is less than the Minimum Adjustment.

(B) If the Tentative Adjustment Factor is more than the Minimum Adjustment, compute the Carryforward Adjustment Factor. Compare the Carryforward Adjustment Factor to the number 0.735092 (the "Minimum Carryforward Adjustment"). Divide the greater of the Carryforward Adjustment Factor and the Minimum Carryforward Adjustment, by the Minimum Adjustment (the resulting quotient, the "Tentative

Carryforward Adjustment"). The greater of the Tentative Carryforward Adjustment and the Minimum Adjustment is the Adjustment Factor. Multiply the annual Minimum Rent previously in effect by the Adjustment Factor. The resulting product is the Minimum Rent which will become effective as of the current Adjustment Date, provided that in no event may Minimum Rent during the Initial Term be less than $1,200,000 per year. Since the Tentative Adjustment Factor is more than the Minimum Adjustment, there can be no Negative Carryforward to the next Adjustment Period. If the Tentative Adjustment Factor is also more than the Maximum Adjustment, there will be a Carryforward to the next Adjustment Period. If the Tentative Adjustment Factor is less than the Maximum Adjustment, there will be no Carryforward or Negative Carryforward to the next Adjustment Period.

(c) General Provisions Relating to Carryforwards and Negative Carryforwards. There shall be no Carryforward or Negative Carryforward created on or carried forward from the First Adjustment Date, and thus the adjustment to Minimum Rent occurring on April 1, 2006 shall be calculated in accordance with the provisions of Section 2.4(b)(i). In addition, there shall be no Carryforward or Negative Carryforward applied at the time of, or carried forward past the time of, an adjustment to Minimum Rent under Section 2.5 (and any Carryforward or Negative Carryforward then existing shall expire). Any Carryforward or Negative Carryforward created on any Adjustment Date shall be carried forward for possible application at the next Adjustment Date (but only at the next Adjustment Date). Any Carryforward or Negative Carryforward not used on the Adjustment Date occurring three (3) years after its creation shall expire.

(d) An example of the operation of the CPI provisions of this Section 2.4 is contained in Exhibit C.

2.5 Market Adjustment to Minimum Rent for Extended Terms.

At the beginning of the first Extended Term and again at the beginning of the fifth Extended Term, Minimum Rent shall be determined in the manner specified in this Section 2.5 (subject to subsequent CPI adjustment under Section 2.7):

(a) Agreement Upon Fair Market Value. Following delivery of Tenant's Option Notice for the first Extended Term or the fifth Extended Term, pursuant to Section 1.2(b), Landlord and Tenant shall attempt in good faith to agree upon the Fair Market Rent for the Property. As used herein, "Fair Market Rent" means the annual fair market rental value of the Property, which shall be calculated by (i) determining the value of the fee interest in the Property in accordance with the provisions of this Section ("Fair Market Value") at the time of the rental adjustment ("date of value"), without regard to the value of the Ballpark or other Improvements and as if such fee interest were unencumbered by this Lease or any Mortgage on the Improvements or Tenant's Leasehold Estate , and (ii) applying an appropriate rate of return to the Fair Market Value, taking into account in determining such rate of return the effect, if any, of the remaining Term of this Lease and the provisions of this Lease regarding subsequent

adjustment of such Fair Market Rent as set forth in this Section 2.5 and in Section 2.7 below. The Property shall be valued under a reasonably achievable development scenario consistent with the land use regulations in effect on the date of value. The Parties shall not assume that such land use regulations will be amended or modified after the date of value, other than as permitted under then-existing procedures for exceptions, variances or conditional use authorizations. As used in this Section, the term "land use regulations" means all federal, state and local laws, regulations, rulings, ordinances, codes, resolutions, plans and guidelines governing the uses of land and the improvements thereon which may be applicable to the Property, including, without limitation, those relating to urban design, density, height and bulk of structures, compatibility with surrounding land uses, requirements to mitigate or avoid environmental impacts, mitigation fees, and the Investigation or Remediation of Hazardous Materials, as all of the same would reasonably and probably be applied to any particular development proposal at the location of the Property. In addition to uses permitted (or conditionally permitted) under the Redevelopment Plan, any alternative development scenario of the Property which is reasonably achievable under all applicable land use regulations other than the Redevelopment Plan, shall be treated as consistent with existing land use regulations for purposes of this Section, even if such uses are not permitted under the Redevelopment Plan in effect on the date of value. If the Fair Market Rent of the Property is determined based on any development scenario which would require the Demolition of all or some of the then-existing Improvements, including the Ballpark, the estimated cost of such Demolition shall be reflected as a deduction in the determination of Fair Market Value, upon which Fair Market Rent is calculated. If the Parties reach an agreement as to the Fair Market Rent, they shall promptly execute a written instrument to evidence such agreement, and such written instrument shall constitute a conclusive determination of Fair Market Rent for the first Extended Term or fifth Extended Term, as applicable.

(b) Appraisal; Arbitration. If the Parties have not agreed on the Fair Market Rent for the first Extended Term by December 31, 2021, or if the Parties have not agreed on the Fair Market Rent for the fifth Extended Term by December 31, 2041, Tenant shall have the right to elect by written notice to Landlord to either: (1) withdraw its Option Notice ("Withdrawal Notice"); or (2) irrevocably confirm its Option Notice and the exercise of the Option ("Confirmation Notice"), in which case the Fair Market Rent for the Premises shall be determined by the appraisal and arbitration procedure set forth below. Tenant shall give such notice not later than March 31, 2022 in the case of the first Extended Term, and March 31, 2042 in the case of the fifth Extended Term. If Tenant fails to deliver either a Withdrawal Notice or a Confirmation Notice to Landlord on or before such date (as applicable), Tenant shall be deemed to have given a Confirmation Notice on March 31, 2022 or on March 31, 2042, as applicable.

The appraisal or arbitration shall be carried out as follows:

(i) Appointment of Appraisers; Appraisal Instructions. Each Party shall appoint one (1) appraiser within thirty (30) days after Tenant gives (or is deemed to have given) its Confirmation Notice in accordance with subsection (b) above. Upon selecting its

appraiser, each Party shall promptly notify the other Party in writing of the name of the appraiser selected. Each such appraiser shall be competent, licensed, qualified by training and experience in the City, disinterested and independent, and shall be a member in good standing of the Appraisal Institute (MAI), or, if the Appraisal Institute no longer exists, shall hold the senior professional designation awarded by the most prominent organization of appraisal professionals then awarding professional designations. Without limiting the foregoing, each appraiser shall have at least ten (10) years' experience valuing commercial real estate development sites in the City of San Francisco. If either Party fails to appoint its appraiser within such 30-day period, the appraiser appointed by the other Party shall individually determine the Fair Market Rent in accordance with the provisions hereof. Each appraiser will make an independent determination of the Fair Market Rent. The appraisers may share and have access to objective information in preparing their appraisals, but they will independently determine the appropriate assumptions to make based on the provisions of this Section of this Lease and each appraiser's own assessment of the market. Neither of the appraisers shall have access to the appraisal of the other (except for the sharing of objective information contained in such appraisals) until both of the appraisals are submitted in accordance with the provisions of this Section. Neither Party shall communicate with the appraiser appointed by the other Party regarding the instructions contained in this Section before the appraisers complete their appraisals. If either appraiser has questions regarding the instructions in this Section or the interpretation of this Lease, such appraiser shall use his or her own professional judgment and shall make clear all assumptions upon which his or her professional conclusions are based, including any supplemental instructions or interpretative guidance received from the Party appointing such appraiser. There shall not be any arbitration or adjudication of the instructions to the appraisers contained in this Section. Each appraiser shall complete, sign and submit its written appraisal setting forth the Fair Market Rent to the Parties within sixty (60) days after the appointment of the last of such appraisers. If the higher appraised Fair Market Rent is not more than one hundred ten percent (110%) of the lower appraised Fair Market Rent, then the Fair Market Rent shall be the average of such two (2) Fair Market Rent figures.

(ii) Arbitration. If the higher appraised Fair Market Rent is more than one hundred ten percent (110%) of the lower appraised Fair Market Rent, then the Parties shall agree upon and appoint an independent arbitrator within thirty (30) days after both of the first two (2) appraisals have been submitted to the Parties. The arbitrator shall have the minimum qualifications as required of an appraiser pursuant to paragraph (i) above, and shall also have experience acting as an arbitrator of disputes involving commercial real estate or real estate development opportunities, including ground leases and rental valuation. If the Parties do not appoint such arbitrator within such 30-day period, then either Party may apply to the Superior Court of the State of California in and for the County of San Francisco for appointment of an arbitrator meeting the foregoing qualifications. If the court denies or otherwise refuses to act upon such application, either Party may apply to the American Arbitration Association, or any similar provider of professional commercial arbitration services, for appointment in accordance with the rules and procedures of such organization of an independent arbitrator meeting the foregoing qualifications. Such arbitrator shall consider the appraisals submitted by

the Parties as well as any other relevant written evidence which the Parties may choose to submit. If a Party chooses to submit any such evidence, it shall deliver a complete and accurate copy to the other Party at the same time it submits the same to the arbitrator. Neither Party shall conduct ex parte communications with the arbitrator regarding the subject matter of the arbitration. Within thirty (30) days after his or her appointment, the arbitrator shall conduct a hearing, at which Landlord and Tenant may each make supplemental oral and/or written presentations, with an opportunity for testimony by the appraisers and questioning by the Parties and the arbitrator. Within thirty (30) days following the hearing, the arbitrator shall select the appraised Fair Market Rent determined by one or the other of the first two (2) appraisers that is the closer, in the opinion of the arbitrator, to the actual Fair Market Rent. The determination of the arbitrator shall be limited solely to the issue of deciding which of the appraisals of the two appraisers is closest to the actual Fair Market Rent. The arbitrator shall have no right to propose a middle ground or to modify either of the two appraisals, or any provision of this Lease.

(iii) Conclusive Determination. Except as provided in California Code of Civil Procedure Section 1286.2 (as the same may be amended from time to time), the determination of the Fair Market Rent by appraisal or arbitration shall be conclusive, final and binding on the Parties. Neither the appraisers nor the arbitrator shall have any power to modify any of the provisions of this Lease and must base their decision on the definitions, standards, assumptions, instructions and other provisions contained in this Lease. Subject to the provisions of this Section, the Parties will cooperate to provide all appropriate information to the appraisers and the arbitrator. The appraisers (but not the arbitrator) can utilize the services of special experts, including experts to determine property condition, market rates, leasing commissions, renovation costs and similar matters. The appraisers and the arbitrator will each produce their determination in writing, supported by the reasons for the determination.

(iv) Conduct of Arbitration Proceeding. Any arbitration proceeding in connection with the determination of such Fair Market Rent shall be subject to California Code of Civil Procedure Sections 1280 to 1294.2 (but excluding Section 1283.05 with respect to discovery), or successor California laws then in effect relating to arbitration generally. Any such proceeding shall be conducted in the City of San Francisco.

(v) Fees and Costs; Waiver. Each Party shall bear the fees, costs and expenses of the appraiser it selects under subsection (b)(i) and of any experts and consultants used by the appraiser. The fees, costs and expenses of the arbitrator and the costs and expenses of the arbitration proceeding, if any, under subsection (b)(ii) shall be shared equally by Landlord and Tenant. Each Party waives any claims against the appraiser appointed by the other Party, and against the arbitrator, for negligence, malpractice or similar claims in the performance of the appraisals or arbitration contemplated by this Section.

(vi) ARBITRATION OF DISPUTES. With respect to the arbitration provided for in this Section 2.5, the Parties agree as follows:

NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISIONS IN THIS LEASE DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.

_____ _____

Landlord's Initials Tenants' Initials

Any judgment upon the award rendered by the arbitration may be entered in any court having jurisdiction of such arbitration in accordance with the terms of this Lease. This arbitration provision does not affect the rights of either Party to seek confirmation, correction or vacation of the arbitration award pursuant to California Code of Civil Procedure Section 1285 et seq.

(c) Floor and Ceiling. Once Fair Market Rent for the Premises has been determined under Section 2.5(a) or (b), Minimum Rent shall be determined in the following manner: If Fair Market Rent has been determined by appraisal under Section 2.5(b), Minimum Rent shall equal the Fair Market Rent so determined, but not less than the Floor nor more than the Ceiling. If Fair Market Rent has been determined by agreement of the Parties under Section 2.5(a), Minimum Rent shall equal the Fair Market Rent so agreed upon, but not less than the Floor nor more than the Ceiling, unless the Parties have, in their respective sole discretion, specifically agreed in writing that the Floor and/or the Ceiling will not apply to such adjustment. The Floor and Ceiling shall be determined as follows:

(i) Determination of Floor and Ceiling for First Extended Term. At the beginning of the first Extended Term, the Floor shall be determined by multiplying the difference between the Minimum Rent in effect during the last year of the Initial Term and

$1,200,000 by one-half (0.5) and adding the result to $1,200,000. The Ceiling shall be determined by multiplying the difference between the Minimum Rent in effect during the last year of the Initial Term and $1,200,000 by one and one-half (1.5), and adding the result to $1,200,000. For example, if the Minimum Rent during the last year of the Initial Term is $3,600,000 then the Floor equals $2,400,000 (($3,600,000 - $1,200,000) x 0.5 + $1,200,000), and the Ceiling equals $4,800,000 (($3,600,000 - $1,200,000) x 1.5) + $1,200,000).

(ii) Determination of Floor and Ceiling for Fifth Extended Term. At the beginning of the fifth Extended Term, the Floor shall be determined by multiplying the difference between the Minimum Rent in effect during the last year of the fourth Extended Term and the Minimum Rent in effect during the first year of the first Extended Term by one-half (0.5), and adding the result to the Minimum Rent in effect during the first year of the first Extended Term. The Ceiling shall be determined by multiplying the difference between the Minimum Rent in effect during the last year of the fourth Extended Term and the Minimum Rent in effect during the first year of the first Extended Term by one and one-half (1.5), and adding the result to the Minimum Rent in effect during the first year of the first Extended Term.

2.6 Rent Credits.

(a) Advances. Tenant shall be entitled to offset the sum of Two Hundred Fifty Thousand Dollars ($250,000.00) against Minimum Rent due and payable hereunder, in two equal installments of One Hundred Twenty Five Thousand Dollars ($125,000.00) each (the "Advance Payment Rent Credits"), on February 1, 2000, and on June 1, 2001 (the "Advance Payment Rent Credit Dates"). The Advance Payment Rent Credits represent a portion of the sums advanced by Tenant to pay for certain of Landlord's transaction costs. If either Advance Payment Rent Credit Date is not a Rent Payment Date, the corresponding Advance Payment Rent Credit shall be credited against Minimum Rent or Additional Rent as the same becomes due and payable, beginning one month prior to the applicable Advance Payment Rent Credit Date and continuing thereafter until such Advance Payment Rent Credit has been fully applied.

(b) DDA Extension Fees. Tenant shall be entitled to offset against installments of Minimum Rent, but only to the extent specified in this Section 2.6(b), the total amount of any DDA Extension Fees (as that term is defined in the DDA) paid by Tenant under the DDA (the "Extension Fee Rent Credits"). No Extension Fee Rent Credits may be taken unless and until CPI Adjustments under Section 2.4 cause Minimum Rent to be payable at a rate which exceeds $1,200,000 per year. Beginning with the first quarterly installment of Minimum Rent which exceeds $300,000, Tenant shall be entitled to apply Extension Fee Rent Credits to reduce Minimum Rent then due, but not below $300,000 per quarter. Thereafter, on each succeeding Rent Payment Date, Tenant shall be entitled to apply any remaining Extension Fee Rent Credits to reduce the quarterly installment of Minimum Rent then coming due, but never below $300,000 per quarter, until all remaining Extension Fee Rent Credits have been fully applied. Any Extension Fee Rent Credits which have not been applied against Minimum Rent in

the foregoing manner by the end of the Initial Term shall expire. If this Lease is terminated prior to the scheduled expiration of the Initial Term, the provisions of Section 2.6(d) shall govern any unapplied Extension Fee Rent Credits.

(c) Adjustments to Minimum Rent. The Advance Payment Rent Credits and the Extension Fee Rent Credits shall not be taken into account in calculating the amount of any CPI adjustments under Sections 2.4, or the Floor or Ceiling for the first Extended Term under Section 2.5(c)(i).

(d) Defaults; Termination. If an Event of Default on the part of Tenant exists on a Rent Payment Date when Tenant would otherwise be entitled to apply a Rent Credit, Tenant's right to apply such Rent Credit shall be suspended, and Tenant shall not be permitted to apply such Rent Credit to Minimum Rent, until (i) the Event of Default (and any other Event of Default on the part of Tenant which may arise in the interim) has been cured or no longer exists, or (2) the date one year following such Rent Payment Date, whichever occurs first. If for any reason an Event of Default continues to exist as of the date one year following the date on which Tenant would otherwise have been entitled to claim such Rent Credit, and this Lease has not been terminated, then the suspension of Tenant's right to claim such Rent Credit shall end and Tenant shall be entitled to claim such Rent Credit on such date. The foregoing shall not operate to waive any other right or remedy Landlord may otherwise have against Tenant on account of such Event of Default (other than to the extent of such credit), or the suspension of any other Rent Credit which may at such time be continuing. If this Lease is terminated due to an Event of Default by Landlord, then, without limiting Tenant's other rights or remedies, Landlord shall pay to Tenant the unapplied amount of the Rent Credits. If this Lease is terminated due to an Event of Default on the part of Tenant, or due to the exercise by Tenant of an option to terminate as provided in Section 6.1(d) or 12, then Tenant shall have no right to recover from Landlord any unapplied Rent Credits. If this Lease is terminated due to a Condemnation, the unapplied amount of the Rent Credits shall be allocated to Tenant from the Award under Section 13.4.

2.7 CPI Adjustments to Minimum Rent during Extended Terms.

Provided the Term has been extended by Tenant's exercise of the necessary Options, Minimum Rent shall be further adjusted to reflect changes in the Index in the manner specified in Section 2.4(b), effective as of the first day of April in each of the years 2026, 2029, 2032, 2035, 2038 and 2041 (but not in 2044, since an adjustment under Section 2.5 will occur at the beginning of the fifth Extended Term), and following the adjustment under Section 2.5 at the beginning of the fifth Extended Term, as of the first day of April in each of the years 2046, 2049, 2052, 2055, 2058 and 2061. Each of the foregoing dates shall be an Adjustment Date. There shall be no Carryforward applied on the first Adjustment Date after a rent adjustment under Section 2.5. The Minimum Rent determined on any Adjustment Date during the Extended Terms may be less than the Floor or more than the Ceiling last determined under Section 2.5, but shall never be less than the Fair Market Rent determined for such Extended Term under the provisions of Section 2.5.

2.8 Manner of Payment of Rent.

Minimum Rent and Additional Rent shall be paid to Landlord in lawful money of the United States of America at the address for notices to Landlord specified in this Lease, or to such other person or at such other place as Landlord may from time to time designate by notice to Tenant. Minimum Rent shall be payable at the times specified in Section 2.3, without prior notice or demand. Additional Rent shall be due and payable at the times otherwise provided in this Lease, provided that if no date for payment is otherwise specified, or if payment is stated to be due "upon demand", "promptly following notice", "upon receipt of invoice", or the like, then such Additional Rent shall be due ten (10) business days following the giving by Landlord of such demand, notice, invoice or the like to Tenant specifying that such sum is presently due and payable.

2.9 No Abatement or Setoff.

Tenant covenants to pay all Rent, including any and all Additional Rent, at the times and in the manner in this Lease provided without any abatement, setoff, deduction, or counterclaim, except as provided in Section 2.6, Section 6.1(d), Section 12, Section 13, and Section 27.1 hereof, and, with regard to a bankruptcy of Landlord, in Section 365 of the United States Bankruptcy Code, as amended.

2.10 Interest on Delinquent Rent.

If any installment of Minimum Rent is not paid within ten (10) days following the date it is due, or if any Additional Rent is not paid within ten (10) business days following written demand for payment of such Additional Rent, such unpaid amount shall bear interest from the date of such notice or demand until paid at an annual interest rate (the "Default Rate") equal to the greater of (i) ten percent (10%) or (ii) five percent (5%) in excess of the rate the Federal Reserve Bank of San Francisco charges, as of the Effective Date of this Lease, on advances to member banks and depository institutions under Sections 13 and 13a of the Federal Reserve Act. However, interest shall not be payable to the extent such payment would violate any applicable usury or similar law. Payment of interest shall not excuse or cure any default by Tenant.

2.11 Additional Rent.

Except as otherwise provided in this Lease, all costs, fees, interest, charges, expenses, reimbursements and obligations of every kind and nature relating to the Premises that may arise or become due during or in connection with the Term of this Lease, whether foreseen or unforeseen, which are payable by Tenant to Landlord pursuant to this Lease, shall be deemed Additional Rent. Landlord shall have the same rights, powers and remedies, whether provided

by law or in this Lease, in the case of non-payment of Additional Rent as in the case of non-payment of Minimum Rent.

2.12 Net Lease.

It is the purpose of this Lease and intent of Landlord and Tenant that, except as specifically stated to the contrary in Section 2.9, all Rent shall be absolutely net to Landlord, so that this Lease shall yield to Landlord the full amount of the Rent at all times during the Term, without deduction, abatement or offset. Under no circumstances, whether now existing or hereafter arising, and whether or not beyond the present contemplation of the Parties, except as may be provided in this Lease, shall Landlord be expected or required to incur any expense or make any payment of any kind with respect to this Lease or Tenant's use or occupancy of the Premises, including any Improvements.

SECTION 3. USES

3.1 Permitted Uses.

(a) Description of Permitted Uses. Tenant may use the Premises for the following uses and purposes (collectively, the "Permitted Uses"), and no others, except as otherwise provided in this Lease, including, but not limited to, Section 3.1(b):

(i) The operation of a Major League Baseball franchise, including, without limitation, the exhibition, presentation and broadcasting (or other transmission) of Baseball Home Games, and activities related thereto, including, without limitation, training, practices and baseball exhibitions, All-Star Games, promotional activities and events, community and public relations, maintenance and operation of the Ballpark and related facilities (including facilities for ticket holders, and particularly including facilities, the use of which may be limited to particular classes of ticket holders, such as holders of Seat Rights, purchasers of "club" level or luxury box seats, or the like), the exhibition of advertising (subject to Section 3.4), marketing of games and other events, ticket sales, fantasy camps and any and all other activities which, from time to time, are customarily conducted by or are related to the operation of the business of a Major League Baseball franchise;

(ii) Subject to the provisions of Section 3.2 below, the exhibition, presentation and broadcasting (or other transmission) of other amateur or professional sporting events, exhibitions and tournaments, live concerts and musical performances, theater performances and other forms of live entertainment, public ceremonies, fairs, markets, fireworks displays, shows, sporting events or other public or private exhibitions ("Other Events") and activities related thereto;

(iii) Restaurants, clubs and bars (including brew pubs and sports bars);

(iv) Sale of food and alcoholic and non-alcoholic beverages, souvenirs and other items customarily sold and marketed (whether by Tenant, Subtenants, or otherwise) in sports and entertainment facilities;

(v) Sale and display of advertising on the scoreboard or elsewhere in the Ballpark, subject to Sections 3.4 and 45.5;

(vi) Sale or grant of rights to the name of the Ballpark (including related signage rights), subject to the provisions of Section 3.3;

(vii) Operating a baseball museum open to the public;

(viii) Conducting public tours of the Ballpark and related facilities;

(ix) Providing parking in the Project's parking facilities (including parking for customers, employees and Invitees and parking for Other Events);

(x) Specialty retail uses (as distinguished from department stores and supermarkets), including such uses located in the concourses of the Ballpark, along the Waterfront Promenade, Third Street and King Street, in the Pavilion Building, adjacent to other Public Access Areas and plaza areas within the Premises, and in kiosks, carts and similar movable or temporary retail facilities;

(xi) Entertainment (including theaters, movie theaters and arcades), museum and educational uses (including a children's learning center in which children could learn about communication and information technology);

(xii) Providing ferry service to and from any Ferry Landing Facilities, subject to Landlord's approval in accordance with Sections 1.1(f) and 37 and further subject to the limitations in Section 3.5(b)(ix);

(xiii) Office use by (A) Tenant, (B) the Subtenant under the Baseball Sublease, (C) other Subtenants, if such use is (1) ancillary to the operation of other Permitted Uses specified in this subsection (a), or (2) for a maritime-related purpose;

(xiv) Studio and related facilities for radio, television and other broadcast and entertainment media within the Ballpark and the Improvements, including support and production facilities, transmission equipment, antennas and other transceivers, and related facilities and equipment primarily for the broadcasting or other transmission of Baseball Home Games (including Post Season Games and exhibition games), and other events taking place within the Premises;

(xv) Storage of maintenance equipment and supplies used in connection with the operation of the Premises for all other Permitted Uses, including groundskeeping vehicles; and

(xvi) Other uses reasonably related or incidental to any of the foregoing.

(b) Additional Permitted Uses in the Pavilion Building. The following shall be additional Permitted Uses in the Pavilion Building up to a maximum of forty thousand (40,000) square feet, in the aggregate:

(i) An executive communications center, including meeting and teleconferencing facilities, available for use by the business community; and

(ii) Additional facilities for radio, television and other broadcast and entertainment media, including sales, support and production facilities, other than as described in subsection (a)(xiv) above.

3.2 Limitations on Other Events.

(a) Approval of Certain Other Events. Certain Other Events will require the approval of Landlord, as provided in the Improvement Measures.

(b) Payment for Designated Services. Subject to the approvals and limitations set forth in subsection (a) above, and compliance with any other applicable Mitigation Measures and Improvement Measures, Tenant may conduct Other Events within the Project as follows:

(i) Other Events with a maximum estimated public attendance of up to Five Thousand (5,000) persons may be conducted without prior approval by Landlord.

(ii) Following the expiration or earlier termination of the Non-Relocation Agreement, if no Major League Baseball franchise is playing its Baseball Home Games in the Ballpark, the exhibition and presentation of a comparable number of other amateur or professional sporting events may be conducted without the prior approval of Landlord.

(iii) Except as provided in subparagraph (ii), Other Events with estimated public attendance exceeding 5,000 persons, may be conducted only with the prior consent of the Executive Director. From time to time, Tenant may propose one or more Other Events (including one or more series of Other Events) by giving notice to the Executive Director describing the nature of the event(s), the expected attendance, the date(s) and time(s) of the proposed event(s), and any other facts or circumstances which may be relevant to the Executive

Director's consideration of such Other Event in accordance with this Section 3.2. The Executive Director and Tenant shall negotiate in good faith with each other and with any affected City departments to determine what, if any, Designated Services would be reasonably required in connection with such Other Event(s), and the incremental costs of providing such Designated Services with respect to such Other Event(s), taking into account all the facts and circumstances, including the security, litter pick-up, parking and traffic control and other such services to be provided by Tenant and/or the sponsor of such Other Event(s). Without limiting the approval rights as to certain Other Events under subsection (a) above, the Executive Director shall not withhold consent under this subsection (b) to any such Other Event as to which Tenant has agreed to pay Landlord (or City, as applicable) for the actual and reasonable incremental cost of providing Designated Services with respect to such Other Event, in an amount (A) agreed to in advance by Tenant and the Executive Director, or (B) reasonably determined by the Executive Director. The term "Designated Services" shall mean, with respect to any Other Event, such levels of incremental police services, fire marshal services, litter pick-up, street and sidewalk cleanup, first aid and paramedic services, and parking and traffic control services, as the Parties agree in advance are reasonably required by, and will be provided by City to the Premises and/or the surrounding area in connection with, such Other Event. Tenant shall not be required to reimburse City or Landlord under this Section 3.2 for any costs of providing City services to or in connection with any Other Event, except to the extent of the incremental costs of Designated Services as agreed in advance, or as Tenant and the Executive Director otherwise agree in writing. In particular, the Parties intend that such an agreement may, with respect to any particular Other Event, include provisions for the payment by Tenant (or the sponsor of an Other Event), if the actual attendance at such Other Event materially exceeds the estimated attendance, of costs directly resulting from the provision of Designated Services in excess of the levels which were agreed upon based on estimated attendance.

(c) Notice. Whether or not Landlord's consent is required, Tenant will give reasonable advance notice to Landlord of any Other Event (as well as any other scheduled event permitted under Section 3.1(a)(i) which will be separately ticketed from any Baseball Home Game) which Tenant anticipates, in good-faith, will generate public attendance exceeding 2,000 persons. However, Tenant's failure to give such notice shall not constitute a default under this Lease. This subsection does not limit any other notice requirements of Tenant under the Improvement Measures with regard to Other Events.

3.3 Naming Rights to Ballpark.

Subject to Sections 3.4 and 45.5, Tenant shall have the right to name the Ballpark and/or other Improvements within the Project, and to change the name of the Ballpark and/or other Improvements within the Project from time to time; provided, however, (i) Tenant shall give ninety (90) days prior notice to Landlord of any change in the name of the Ballpark to any name other than "Pacific Bell Park", and (ii) any agreement by Tenant granting to a third Person a right to name the Ballpark or other Improvements (a "Naming Rights Agreement") shall in no event extend beyond or survive the expiration or earlier termination of this Lease (subject to the

provisions of Sections 23 and 42) without the consent of Landlord, which Landlord may give or withhold in its sole discretion (except as otherwise provided in Section 16.4).

3.4 Advertising and Signs.

Subject to the prohibition on tobacco advertising provided in Section 45.5, Tenant shall have the right to install signs and advertising inside the Ballpark and on the exterior of the Ballpark and the Improvements. A copy of the sign guidelines for the Premises (which shall be in lieu of any other guidelines now in effect or hereinafter promulgated by the Port) is attached hereto as Exhibit G. Any proposed signs on the exterior of the Ballpark or other Improvements that do not conform to such guidelines shall be subject to Landlord's approval, in its reasonable discretion. All signs shall comply with applicable Laws regulating signs and advertising.

3.5 Limitations on Uses by Tenant.

(a) Limitations. Tenant's use of the Premises shall comply with the following restrictions and prohibitions:

(i) Subject to the provisions of Sections 10, 12 and 13 of this Lease, and without limitation on any right given Tenant to alter, modify, Demolish, Restore, or construct Improvements, Tenant shall not commit or permit to be committed any waste, damage or injury to the Premises or Improvements;

(ii) Tenant shall not conduct or allow to be conducted on the Premises any activity that creates a public or private nuisance;

(iii) Tenant may not use the Premises or any portion of the Premises for wholesale sales (it being understood that the foregoing limitation does not apply to retail businesses which sell merchandise at discount prices to the general public); hotels, hostels, time shares or lodging or other transient occupancy facilities; residential uses of any kind; and any unlawful use or other use of a type not generally considered appropriate for a first-class Ballpark and complementary commercial and entertainment complex conducted in accordance with good and generally accepted standards of operation;

(iv) Tenant may not use the Premises or any portion of the Premises for office space, except as permitted in Section 3.1(a)(xiii);

(v) Tenant may not use the Premises for large outdoor freestanding amusement rides, except on a temporary basis in connection with promotional activities and Other Events;

(vi) The Premises shall not be used for the landing or take-off of any aircraft, including helicopters, except on a temporary basis in connection with

(A) construction (including Restoration and Subsequent Construction) of Improvements, but subject to Landlord's review and approval in its regulatory (as opposed to its proprietary) capacity, and (B) landings for emergency or medical services in connection with Baseball Home Games or Other Events;

(vii) No portion of the Premises within one hundred (100) feet of the shoreline shall be used for any of the following uses: non-maritime private clubs (it being understood by Landlord and Tenant that neither the sale of so-called Charter Seats, nor the designation of one level of the Ballpark as a so-called "club level", nor the maintenance or operation of facilities access to which is limited to persons purchasing "club-level" or so-called "luxury box" seats in the Ballpark, nor the operation of a limited-access restaurant and/or bar for certain categories of ticket holders, shall be deemed to be the operation of a private club) residential; non-accessory parking, except for interim parking; adult entertainment; non-marine animal services; mortuaries; heliports (except as provided in clause (vi) above); oil refineries; mini-storage warehouses; and hotels;

(viii) No portion of the Premises shall be used for department stores, supermarkets or "big box" retail centers; and

(ix) Ferry service permitted under Section 3.1(a)(xii) shall not be used for excursions except as agreed upon by Landlord, which may give, withhold or condition such approval in its sole and absolute discretion (including requiring the payment of additional rent for such use).

(b) Land Use Restrictions. Tenant may not enter into agreements granting licenses, easements or access rights over the Premises if the same would be binding on Landlord's reversionary interest in the Premises, or obtain zoning changes or conditional use permits for any uses not provided for hereunder, in each instance without Landlord's prior written consent, which shall not be withheld or delayed unreasonably, and subject to the provisions of Section 6.

3.6 Public Access Over Waterfront Promenade.

Landlord hereby reserves reasonable access rights over the portion of the Premises consisting of the Waterfront Promenade so as to permit use of such areas by the general public (subject to the right of Tenant to prescribe reasonable rules, regulations, operating hours, and similar restrictions related to crowd and traffic control, safety, and similar concerns). Without limitation on the foregoing but subject to Regulatory Approvals, Tenant shall have the right, in order to provide for appropriate night-time security for the public and the Premises, to gate or otherwise exclude the general public from the Waterfront Promenade each day from midnight until 6 a.m.

3.7 Agreement to Negotiate for Civic Events.

Tenant recognizes that Landlord may wish to use the Ballpark from time to time to provide a venue for civic events, including public ceremonies and protocol events ("Civic Events"). Tenant agrees to negotiate in good faith with City, including Landlord, for the use of the Ballpark for Civic Events, provided that such events do not conflict with the conduct of Permitted Uses, including, without limitation, Baseball Home Games and scheduled Other Events. Tenant may require payment of such rental or other compensation and provision of such insurance and indemnification as Tenant deems appropriate for such use. Tenant shall not be required to pay for Designated Services in connection with any Civic Events at the Ballpark, and the obligations of Tenant under Section 3.2 shall not apply to Civic Events. Civic Events shall, however, be subject to the Mitigation Measures and Improvement Measures.

SECTION 4. TAXES AND ASSESSMENTS

4.1 Payment of Possessory Interest Taxes and Other Impositions.

(a) Payment of Possessory Interest Taxes. Tenant shall pay or cause to be paid, prior to delinquency, all possessory interest and property taxes assessed, levied or imposed on the Premises or any of the Improvements or Personal Property (excluding the personal property of any Subtenant whose interest is separately assessed) located on the Premises or Tenant's Leasehold Estate (but excluding any such taxes separately assessed, levied or imposed on any Subtenant), to the full extent of installments or amounts payable or arising during the Term (subject to the provisions of Section 4.1(e)). Subject to the provisions of Section 5 hereof, all such taxes shall be paid directly to the City's Tax Collector or other charging authority prior to delinquency, provided that if applicable Law permits Tenant to pay such taxes in installments, Tenant may elect to do so. In addition, Tenant shall pay any fine, penalty, interest or cost as may be charged or assessed for nonpayment or delinquent payment of such taxes. Tenant shall have the right to contest the validity, applicability or amount of any such taxes in accordance with Section 5.

(i) Acknowledgment of Possessory Interest. Tenant specifically recognizes and agrees that this Lease creates a possessory interest which is subject to taxation, and that this Lease requires Tenant to pay any and all possessory interest taxes levied upon Tenant's interest pursuant to an assessment lawfully made by the City's Assessor. Tenant further acknowledges that any Sublease or assignment permitted under this Lease and any exercise of any option to renew or extend this Lease may constitute a change in ownership, within the meaning of the California Revenue and Taxation Code, and therefore may result in a reassessment of any possessory interest created hereunder in accordance with applicable Law.

(ii) Reporting Requirements. San Francisco Administrative Code Sections 6.63-1, 6.63-2, 23.6-1 and 23.6-2 require that Landlord report certain information relating to this Lease, and the creation, renewal, extension, assignment, sublease, or other transfer

of any interest granted hereunder, to the County Assessor within sixty (60) days after any such transaction. Within thirty (30) days following the date of any transaction that is subject to such reporting requirements, Tenant shall provide such information as may reasonably be requested by Landlord to enable Landlord to comply with such requirements.

(b) Other Impositions. Without limiting the provisions of Section 4.1(a), Tenant shall pay or cause to be paid all Impositions (as defined below), to the full extent of installments or amounts payable or arising during the Term (subject to the provisions of Section 4.1(e)), which may be assessed, levied, confirmed or imposed on or in respect of or be a lien upon the Premises, any Improvements now or hereafter located thereon, any Personal Property now or hereafter located thereon (but excluding the personal property of any Subtenant whose interest is separately assessed), the Leasehold Estate created hereby, or any subleasehold estate permitted hereunder, including any taxable possessory interest which Tenant, any Subtenant or any other Person may have acquired pursuant to this Lease (but excluding any such Impositions separately assessed, levied or imposed on any Subtenant, except to the extent of possessory interest taxes Tenant is obligated to pay under the OPA in order to pay debt service on the Tax Allocation Bonds). Subject to the provisions of Section 5, Tenant shall pay all Impositions directly to the taxing authority, prior to delinquency, provided that if any applicable Law permits Tenant to pay any such Imposition in installments, Tenant may elect to do so. In addition, Tenant shall pay any fine, penalty, interest or cost as may be assessed for nonpayment or delinquent payment of any Imposition. As used herein, "Impositions" means all taxes, assessments, liens, levies, charges or expenses of every description, levied, assessed, confirmed or imposed on the Premises, any of the Improvements or Personal Property located on the Premises, Tenant's Leasehold Estate, any subleasehold estate, or any use or occupancy of the Premises hereunder. Impositions shall include all such taxes, assessments, fees and other charges whether general or special, ordinary or extraordinary, foreseen or unforeseen, or hereinafter levied or assessed in lieu of or in substitution of any of the foregoing of every character, except as otherwise provided in subsection (c) below.

(c) Exceptions. Notwithstanding the foregoing, (i) Tenant shall not pay or reimburse Landlord hereunder for any (A) franchise, corporate or capital stock taxes levied or assessed against Landlord or (B) estate, inheritance, succession or gift taxes of Landlord, and (ii) Impositions shall in no event include income taxes measured by the net income of Landlord, whether based solely on this Lease or based on all sources; provided that nothing herein is intended to suggest that any such taxes apply to Landlord during any period in which the owner of the Premises is the City or any other governmental agency.

(d) Penalties and Fines. Tenant shall pay or reimburse Landlord, as the case may be, for any fine, penalty, interest or cost which may be added by the collecting authority for the late payment or nonpayment of any Imposition required to be paid by Tenant hereunder.

(e) Prorations. All Impositions imposed for the tax years in which the Commencement Date occurs or during the tax year in which this Lease terminates shall be apportioned and prorated between Tenant and Landlord on a daily basis.

(f) Proof of Compliance. Within a reasonable time following Landlord's written request given from time to time, Tenant shall deliver to Landlord copies of official receipts of the appropriate taxing authorities, or other proof reasonably satisfactory to Landlord, evidencing the timely payment of such Impositions.

4.2 Additional Taxes.

In addition to possessory interest taxes and other Impositions described in Section 4.1, Tenant shall pay all taxes assessed by any governmental authority on any business operated by Tenant in or from the Premises and the Improvements. If (a) the State, the federal government or any other governmental body having the power to tax, taxes during any period in which the owner of the Premises is a governmental agency or a public body, corporate and politic, but not thereafter, (i) the rental income from real estate (whether or not denominated a gross receipts or other tax with respect to receipt of rent by Landlord), (ii) the square footage of the Premises or Improvements, or any portion thereof, (iii) the act of entering into this Lease, (iv) the occupancy of or under Tenant, or (v) property or businesses of sports teams or entertainment events or facilities, or if any such entity imposes or levies any other tax, fee or excise, however described, including, without limitation, a so-called value-added tax, so as to impose a liability upon Landlord for the amount of such tax, or (b) a tax or assessment shall be levied, assessed, imposed or confirmed against Landlord's fee interest in the Premises in connection with any use permitted under this Lease or any benefit received by Tenant or any person under Tenant, then, in each such instance, Tenant shall pay all such taxes so imposed with respect to any portion of the Term, before delinquency and before any fine, penalty, interest or cost may be added thereto for the nonpayment thereof; but excluding, however, any such tax (1) imposed by City, or (2) liability for which could not lawfully be imposed on City, or be levied, assessed, imposed or confirmed as against City's property, without City's consent or approval.

4.3 Landlord's Right to Pay.

Unless Tenant is exercising its right to contest under and in accordance with the provisions of Section 5, if Tenant fails to pay and discharge any Impositions prior to delinquency, Landlord, at its sole option, may (but is not obligated to) pay or discharge the same, provided that prior to paying any such delinquent Imposition, Landlord shall give Tenant written notice specifying a date at least ten (10) business days following the date such notice is given after which Landlord intends to pay such Impositions. If Tenant fails, on or before the date specified in such notice, either to pay the delinquent Imposition or to notify Landlord that it is contesting such Imposition pursuant to Section 5, then Landlord may thereafter pay such Imposition, and the amount so paid by Landlord (including any interest and penalties thereon paid by Landlord), together with interest at the Default Rate computed from the date Landlord

makes such payment, shall be deemed to be and shall be payable by Tenant as Additional Rent, and Tenant shall reimburse such sums to Landlord within ten (10) business days following demand.

4.4 Stadium Admissions Taxes.

The Parties acknowledge and agree that they have negotiated the Rent payable by Tenant under this Lease and Tenant's obligation to construct the Ballpark and other Initial Improvements under the DDA in reliance on the provisions of this Section.

(a) Agreement to Pay Admissions Tax. Except as provided in Section 4.4(b) below, Tenant agrees to collect and pay (or to require the Subtenant under the Baseball Sublease to collect and pay, as appropriate) all taxes lawfully imposed on admissions and/or admissions tickets to Baseball Home Games at the Ballpark. Specifically, Tenant consents to the imposition, extension, renewal, or substitution of a tax on admissions to Baseball Home Games at the Ballpark, in the amount of $0.25 per ticket (the "Existing Baseball Admissions Tax").

(b) Excess Admission Taxes. If the City imposes, extends or increases a tax on admissions and/or admission tickets to Baseball Home Games played at the Ballpark during the Initial Term that is greater than the Existing Baseball Admissions Tax (an "Excess Admissions Tax"), then City shall reimburse Tenant (or the Subtenant under the Baseball Sublease, as appropriate) for one hundred percent (100%) of the Excess Admissions Tax paid by such Person with respect to any period within the Initial Term, in each instance within ninety (90) days following request for payment; provided, however, City shall not be obligated to reimburse Tenant for any portion of such Excess Admissions Tax as to which Tenant has expressly agreed in advance that this Section 4.4 shall not apply, nor shall City have any reimbursement obligation under this Lease for any Excess Admissions Tax with respect to admissions and/or admission tickets to Baseball Home Games taking place after the end of the Initial Term.

(c) Tenant's Remedies. Notwithstanding anything to the contrary in this Lease, the exclusive remedy of Tenant for any failure by City to reimburse Tenant for such Excess Admissions Taxes shall be an action for damages in the amount of the Excess Admissions Tax for the applicable period which has not been reimbursed by City. City shall make any payments required under this Section 4.4 from the proceeds of the Excess Admissions Tax or other sources of City revenues which are not impressed with the Tidelands Trust and which are not otherwise Port revenues. Without limiting the foregoing, Tenant shall not have any right to rescind, invalidate or terminate this Lease, nor shall Tenant be entitled to any credit against Minimum Rent or Additional Rent under this Lease, due to the imposition, extension or increase of any Excess Admissions Tax or City's failure to reimburse Tenant (or such Subtenant) for such Excess Admissions Tax. The limitations on Landlord's liability specified in Section 26.1 of this Lease shall not apply to any liability of City or Landlord under this Section. In

addition, City shall not be released from its obligations under this Section as a result of any transfer of Landlord's interest.

(d) Amendment. Notwithstanding Section 31.1 and Section 46.9, the provisions of this Section shall not be amended without the prior approval of the City's Board of Supervisors and Mayor.

SECTION 5. CONTESTS

5.1 Right of Tenant to Contest Impositions and Liens.

Subject to any applicable provisions of the OPA and Tenant's obligations under such agreement, Tenant shall have the right to contest the amount, validity or applicability, in whole or in part, of any Imposition or other lien, charge or encumbrance against or attaching to the Premises or any portion of, or interest in, the Premises, including any lien, charge or encumbrance arising from work performed or materials provided to Tenant or any Subtenant or other Person to improve the Premises or any portion of the Premises, by appropriate proceedings conducted in good faith and with due diligence, at no cost to Landlord. Tenant shall give notice to Landlord within a reasonable period of time of the commencement of any such contest and of the final determination of such contest. Nothing in this Lease shall require Tenant to pay any Imposition as long as it contests the validity, applicability or amount of such Imposition in good faith, and so long as it does not allow the portion of the Premises affected by such Imposition to be forfeited to the entity levying such Imposition as a result of its nonpayment. If any Law requires, as a condition to such contest, that the disputed amount be paid under protest, or that a bond or similar security be provided, Tenant shall be responsible for complying with such condition as a condition to its right to contest. Tenant shall be responsible for the payment of any interest, penalties or other charges which may accrue as a result of any contest, and Tenant shall provide a statutory lien release bond or other security reasonably satisfactory to Landlord in any instance where Landlord's interest in the Property may be subjected to such lien or claim. Tenant shall not be required to pay any Imposition or lien being so contested during the pendency of any such proceedings unless payment is required by the court, quasi-judicial body or administrative agency conducting such proceedings. If Landlord is a necessary party with respect to any such contest, or if any law now or hereafter in effect requires that such proceedings be brought by or in the name of Landlord or any owner of the Property, Landlord, at the request of Tenant and at no cost to Landlord, with counsel selected and engaged by Tenant, subject to Landlord's reasonable approval, shall join in or initiate, as the case may be, any such proceeding. Landlord, at its own expense and at its sole option, may elect to join in any such proceeding whether or not any law now or hereafter in effect requires that such proceedings be brought by or in the name of Landlord or any owner of the Property. Except as provided in the preceding sentence, Landlord shall not be subjected to any liability for the payment of any fines, penalties, costs, expenses or fees, including Attorneys' Fees and Costs, in connection with any such proceeding, and without limiting Section 17, Tenant shall Indemnify Landlord for any such fines,

penalties, costs, expenses or fees, including Attorneys' Fees and Costs, which Landlord may be legally obligated to pay.

5.2 Landlord's Right to Contest Impositions.

At its own cost and after notice to Tenant of its intention to do so, Landlord may but in no event shall be obligated to contest the validity, applicability or the amount of any Impositions, by appropriate proceedings conducted in good faith and with due diligence. Landlord in so contesting any Imposition, shall Indemnify Tenant from and against any Losses Tenant suffers by reason of such contest. Nothing in this Section shall require Landlord to pay any Imposition as long as it contests the validity, applicability or amount of such Imposition in good faith, and so long as it does not allow the portion of the Premises affected by such Imposition to be forfeited to the entity levying such Imposition as a result of its nonpayment. Landlord shall give notice to Tenant within a reasonable period of time of the commencement of any such contest and of the final determination of such contest.

SECTION 6. COMPLIANCE WITH LAWS

6.1 Compliance with Laws and Other Requirements.

(a) Tenant's Obligation to Comply. Tenant shall comply, at no cost to Landlord, (i) with all applicable Laws (including Regulatory Approvals), (ii) for so long as Major League Baseball is played in the Ballpark, with all Baseball Rules and Regulations applicable to the Ballpark and its operations, (iii) with all Mitigation Measures imposed on the sponsor of the Project, (iv) with the Improvement Measures, (v) with the requirements of all policies of insurance required to be maintained pursuant to Section 18 of this Lease, (vi) with the DDA (so long as it remains in effect), (vii) with the Rules and Regulations to the extent that such Rules and Regulations do not materially interfere with or affect Tenant's rights hereunder or the Permitted Uses, and further provided that to the extent of any conflict between such Rules and Regulations and the provisions of this Lease, this Lease shall control. The foregoing sentence shall not be deemed to limit Landlord's ability to act in its legislative or regulatory capacity, including the exercise of its police powers, nor to waive any claim on the part of Tenant that any such action on the part of Landlord constitutes a Condemnation or an impairment of Tenant's contract with Landlord. In particular, Tenant acknowledges that the Permitted Uses under Section 3.1 do not limit Tenant's responsibility to obtain Regulatory Approvals for such uses, including but not limited to, building permits, nor do such uses limit Landlord's responsibility in the issuance of any such Regulatory Approvals to comply with applicable Laws, including the California Environmental Quality Act. It is understood and agreed that Tenant's obligation to comply with Laws shall include the obligation to make, at no cost to Landlord, all additions to, modifications of, and installations on the Premises which may be required by any Laws regulating the Premises, subject to the provisions of Sections 6.1(b) and 6.1(d). Tenant's obligations with respect to the Park Access Parcel, and any improvements constructed on the Park Access Parcel, shall be governed by Section 36.1 of this Lease.

(b) Unforeseen Requirements. The Parties acknowledge and agree that Tenant's obligation under this Section 6.1 to comply with all present or future Laws is a material part of the bargained-for consideration under this Lease. Except as otherwise provided in this Section 6.1, Tenant's obligation to comply with Laws shall include, without limitation, the obligation to make substantial or structural repairs and alterations to the Premises (including the Improvements and the bulkhead wall and pier substructure), regardless of, among other factors, the relationship of the cost of curative action to the Rent under this Lease, the length of the then remaining Term hereof, the relative benefit of the repairs to Tenant or Landlord, the degree to which curative action may interfere with Tenant's use or enjoyment of the Premises, the likelihood that the Parties contemplated the particular Law involved, or the relationship between the Law involved and Tenant's particular use of the Premises. Except as provided in Section 6.1(d) or in Sections 12, 13 or 27.1, no occurrence or situation arising during the Term, nor any present or future Law, whether foreseen or unforeseen, and however extraordinary, shall relieve Tenant of its obligations hereunder, nor give Tenant any right to terminate this Lease in whole or in part or to otherwise seek redress against Landlord. Tenant waives any rights now or hereafter conferred upon it by any existing or future Law to terminate this Lease, to receive any abatement, diminution, reduction or suspension of payment of Rent, or to compel Landlord to make any repairs to comply with any such Laws, on account of any such occurrence or situation, except to the extent provided in Section 6.1(d) or in Sections 12, 13 or 27.1.

(c) Proof of Compliance. Tenant shall promptly upon request provide Landlord with evidence of its compliance with any of the obligations required under this Section.

(d) Right to Terminate Lease. Notwithstanding any other provision of this Section 6.1, in the event of any change in Laws after the first twenty (20) years of the Term that would require capital repairs or improvements, including upgrades or other capital expenditures for reconstruction, replacement, expansion, Restoration, alteration or modification of the Premises (including any Improvements), the cost of which will exceed the cost of Demolition of the Improvements, Tenant shall have the option (subject to the rights of Mortgagees), in lieu of performing such capital repairs or capital improvements, to Demolish the Improvements and terminate this Lease on the following terms and conditions of this Section 6.1. Tenant shall exercise such option by delivering written notice to Landlord of Tenant's election, which notice shall include Tenant's good faith estimate of the cost of performing such capital repairs or improvements, and of the cost of Demolition. Following receipt of Tenant's notice, Landlord shall, within ninety (90) days after receipt of Tenant's notice, give notice to Tenant electing, in Landlord's sole and absolute discretion, one of the following alternatives:

(i) to accept Tenant's exercise of such option, including Tenant's Demolition of the Improvements, in which event this Lease shall continue in effect for a reasonable time thereafter in order to permit Tenant to obtain possession of the Premises from its Subtenants and to effect the Demolition. Tenant shall continue to pay Rent during such period, and shall use commercially reasonable efforts to obtain such possession and complete the

Demolition as quickly as possible. Upon completion of Demolition, Tenant shall surrender possession of the Premises to Landlord, and effective upon such surrender, this Lease shall terminate.

(ii) to accept Tenant's exercise of such option, but to accept the Premises in their then-existing condition, subject only to Subleases as to which Landlord has executed a Non-Disturbance Agreement under Section 16.4 (and any other Subleases which Landlord may specify in such notice) and with no obligation on the part of Tenant to perform any Demolition or any of the work required to cause the Premises to comply with such Laws, or

(iii) in lieu of accepting Tenant's exercise of such option, to agree to pay the amount by which the cost of performing the work required to cause the Premises to comply with such Laws exceeds the cost of Demolition, provided, however that Landlord shall have no obligation to select this alternative. If Landlord does elect this alternative, the Parties shall negotiate in good faith for a period not exceeding ninety (90) days to reach an agreement between them, which is also satisfactory to any Mortgagees, with respect to the schedule for performance of required work, the timing of payments of Landlord's contribution to the costs of such work, and any other related issues which may be necessary or appropriate for resolution in connection with such work and the payment for such work. Tenant shall not be required to pay Minimum Rent during such period. If no such agreement is reached within such period, the provisions of subparagraph (i) shall apply, unless Landlord elects, by written notice given within such period, to have subparagraph (ii) apply instead. If Landlord and Tenant reach an agreement with regard to such issues, then Landlord shall pay such costs in accordance with the terms of such agreement and this Lease shall remain in full force and effect (subject to the terms and provisions of such agreement).

(e) Failure to Choose. If Landlord fails to elect one of the three alternatives specified in Section 6.1(d) within the time specified, such failure shall not be a default on the part of Landlord, but shall be deemed (subject to Section 39.2) an election of the alternative described in Section 6.1(d)(i).

(f) Consequences of Termination. If this Lease is terminated by operation of the provisions of Section 6.1(d), the Parties shall have no further obligations to each other under this Lease following the effective date of such termination, subject to payment to Landlord of accrued and unpaid Rent up to the effective date of such termination; provided, however, the indemnification provisions of this Lease shall survive any such termination with respect to matters arising before the date of any such termination, and such termination shall not limit the right of a Mortgagee to a new lease under Section 42.12 unless such Mortgagee has agreed otherwise. At Landlord's request following any such termination, Tenant shall deliver to Landlord a duly executed and acknowledged quitclaim deed suitable for recordation in the Official Records and in form and content satisfactory to Landlord and the City Attorney.

(g) Liquidation of Cost of Demolition. If Tenant gives notice of termination of this Lease under Section 6.1(d) at any time after exercising the Option for the second Extended Term, and Landlord elects (or is deemed to have elected) the alternative described in Section 6.1(d)(i), Tenant may elect, by delivering written notice to Landlord within thirty (30) days following receipt of Landlord's notice electing the alternative described in Section 6.1(d)(i), or within thirty (30) days after Landlord is deemed to have elected the alternative described in Section 6.1(d)(i), as applicable, to pay to Landlord, in lieu of performing such Demolition, and in full liquidation and satisfaction of its obligation to Demolish the Improvements, a termination payment ("Termination Payment") equal to the lesser of (i) the cost of Demolition, or (ii) the present value (computed in the manner specified below) of the Minimum Rent scheduled to become due during the remainder of the scheduled Term (including any Extended Terms for which Options have been exercised, but without regard to any unexercised Options). In performing such computation, any scheduled CPI adjustments for which the necessary Index values have not yet been determined, will be computed by assuming the maximum increase permitted under Section 2.7. The present value of such Minimum Rent shall be computed by discounting the scheduled quarterly installments of Minimum Rent at the interest rate specified in Section 12.4(c)(iv). If Tenant elects to make the Termination Payment, this Lease shall terminate on the date such Payment is delivered to Landlord, and the provisions of Section 6.1(f) shall apply. Effective upon such termination, Tenant shall surrender possession of the Premises in their then-existing condition, subject to existing Subleases and with no obligation on the part of Tenant to perform any Demolition or any of the work required to cause the Premises to comply with such Laws. In addition, if Tenant does not exercise its right to pay the Termination Payment within the 30-day period specified in this Section 6.1(g), Landlord shall have the right to deliver notice to Tenant, within ten (10) days after the end of such 30-day period, requiring Tenant to pay the Termination Payment in lieu of performing Demolition, in which case all of the provisions of this Section 6.1(g) will apply as if Tenant had given notice under this Section.

6.2 Regulatory Approvals.

(a) City Approvals. Tenant understands and agrees that Landlord is entering into this Lease in its proprietary capacity as the holder of fee title to the Property for the public benefit on the terms of the Tidelands Trust, and not in its capacity as a regulatory agency of the City. Tenant understands that the entry by the Port into this Lease shall not be deemed to imply that Tenant will be able to obtain any required approvals from City departments, boards or commissions which have jurisdiction over the Premises, including the Port itself in its regulatory capacity. By entering into this Lease, the Port is in no way modifying Tenant's obligations to cause the Premises to be used and occupied in accordance with all Laws, as provided herein.

(b) Approval of Other Agencies; Conditions. Tenant understands that the Project and Tenant's contemplated uses and activities on the Premises, any subsequent changes in permitted uses, and any alterations or Subsequent Construction to the Premises, may require that approvals, authorizations or permits be obtained from governmental agencies with

jurisdiction, including, but not limited to, BCDC, RWQCB, the Coast Guard and the Army Corps of Engineers. Tenant shall be solely responsible for obtaining Regulatory Approvals as further provided in this Section. In any instance where Landlord will be required to act as a co-permittee, or where Tenant proposes Subsequent Construction which requires Landlord's approval under Section 10, Tenant shall not apply for any Regulatory Approvals (other than a building permit from the Port) without first obtaining the approval of Landlord, which approval will not be unreasonably withheld, conditioned or delayed. Throughout the permit process for any Regulatory Approval, Tenant shall consult and coordinate with Landlord in Tenant's efforts to obtain such Regulatory Approval, and Landlord shall cooperate reasonably with Tenant in its efforts to obtain such Regulatory Approval, provided that Landlord shall have no obligation to make expenditures or incur expenses other than administrative expenses. However, Tenant shall not agree to the imposition of conditions or restrictions in connection with its efforts to obtain a permit from any other regulatory agency than Port, if Landlord is required to be a co-permittee under such permit or the conditions or restrictions could create any obligations on the part of Landlord whether on or off the Property, unless in each instance Landlord has previously approved such conditions in writing in Landlord's sole and absolute discretion. No such approval by Landlord shall limit Tenant's obligation to pay all the costs of complying with such conditions under this Section. Subject to the conditions of this Section, Landlord shall join, where required, in any application by Tenant for a BCDC or other required Regulatory Approval, and in executing such permit, provided that Landlord shall have no obligation to join in any such application or execute the permit if the Port does not approve the conditions imposed by BCDC or other regulatory agency under such permit as provided herein. All costs associated with applying for and obtaining any necessary Regulatory Approval shall be borne by Tenant. Tenant shall be responsible for complying, at no cost to Landlord or the City, with any and all conditions imposed by any regulatory agency as part of a Regulatory Approval. With the consent of Landlord (which shall not be unreasonably withheld or delayed) Tenant shall have the right to appeal or contest in any manner permitted by law any condition imposed upon any such Regulatory Approval. Any fines, penalties or corrective actions imposed as a result of the failure of Tenant to comply with the terms and conditions of any Regulatory Approval shall be paid and discharged by Tenant, and Landlord shall have no liability for such fines and penalties. Without limiting the indemnification provisions of Section 17, Tenant shall Indemnify Landlord and the Other Indemnified Parties from and against any and all such fines and penalties, together with Attorneys' Fees and Costs, for which Landlord may be liable in connection with Tenant's failure to comply with any Regulatory Approval.

SECTION 7. TENANT'S MANAGEMENT AND OPERATING COVENANTS

7.1 Covenants.

Following Completion of the Initial Improvements, Tenant shall maintain and operate the Premises, or cause the Premises to be maintained and operated, in a manner consistent with standards for the maintenance and operation of first-class mixed-use sports, retail and entertainment projects, subject to the provisions of Sections 12 and 13 relating to damage

and destruction and Condemnation. Tenant shall be exclusively responsible, at no cost to Landlord, for the management and operation of the Improvements. In connection with managing and operating the Project, Tenant shall provide (or require others to provide), services as necessary and appropriate to the uses (including Other Events) to which the Improvements are put, including, but not limited to, (a) repair and maintenance of the Improvements, as more fully described in Section 8, (b) utility services, (c) game and event services, as more particularly described in Section 7.3, (d) cleaning and trash removal, (e) landscaping and groundskeeping, (f) security services for the Premises (as provided in Section 7.3 for Baseball Home Games and Other Events and as may be reasonably necessary or appropriate at other times during the Term), and (g) such other services as may be necessary or appropriate for a first-class sports and entertainment project.

7.2. Transportation Management Plan.

Tenant shall be responsible for developing and implementing a transportation management plan which conforms to the Mitigation Measures and satisfies any applicable Improvement Measures.

7.3 Game and Event Services.

(a) Security. Throughout the Term, Tenant will be responsible for providing (or causing others to provide), at no cost to Landlord, security on the Premises, including crowd control and management, traffic control and first aid, during and for a reasonable period before and after Baseball Home Games and Other Events, in accordance with the Mitigation Measures and satisfying any applicable Improvement Measures.

(b) Trash Collection. Throughout the Term, Tenant shall keep the Premises (including the Waterfront Promenade and other publicly accessible areas on the Premises), the adjoining sidewalks and the Park Access Parcel, clear and free of accumulations of trash or rubbish attributable to patronage of Baseball Home Games and Other Events, and in accordance with any applicable Mitigation Measures and Improvement Measures.

SECTION 8. REPAIR AND MAINTENANCE

8.1 Covenants to Repair and Maintain the Premises.

(a) Tenant's Duty to Maintain. Throughout the Term of this Lease, Tenant shall maintain and repair, at no cost to Landlord, the Premises (including, but not limited to, the bulkhead wall, pier substructure, the Waterfront Promenade and all other Improvements), in first-class condition and repair and in compliance with all applicable Laws and the requirements of this Lease. Tenant shall promptly make (or cause others to make) all necessary or appropriate repairs, renewals and replacements, whether structural or non-structural, interior or

exterior, ordinary or extraordinary, foreseen or unforeseen, reasonable wear and tear excepted, except as otherwise provided in Sections 6.1(d), 12, or 13.

(b) Standard of Operation. Without limiting any of the foregoing, Tenant shall, commencing upon completion of construction of the Ballpark and continuing thereafter during the Term of this Lease, maintain the Ballpark in safe, clean, attractive and first-class condition and state of repair, subject to the provisions of Sections 6.1(b), 12 and 13. In addition, for so long as Major League Baseball continues to be played in the Ballpark, Tenant shall maintain (or cause others to maintain) the Ballpark in a manner that is consistent with all applicable requirements imposed by Baseball Rules and Regulations.

(c) No Obligation of Landlord; Waiver of Rights. As between Landlord and Tenant, Tenant shall be solely responsible for the condition, operation, repair, maintenance and management of the Premises, including any and all Improvements, from and after the Commencement Date. Under no circumstances shall Landlord be obligated to make repairs or replacements of any kind or maintain the Premises (including the bulkhead wall, pier substructure, the Waterfront Promenade or any other Improvements) or any portion thereof. Tenant waives the benefit of any existing or future law which would permit Tenant to make repairs or replacements at Landlord's expense, or (except as provided in Sections 6.1(d), 12 and 13) abate or reduce any of Tenant's obligations under, or terminate, this Lease, on account of the need for any repairs or replacements. Without limiting the foregoing, Tenant hereby waives any right to make repairs at Landlord's expense as may be provided by Sections 1932(1), 1941 and 1942 of the California Civil Code, as any such provisions may from time to time be amended, replaced, or restated.

(d) Other Provisions. Nothing in this Section defining Tenant's duty of maintenance and repair shall be construed as limiting any right or obligation of Tenant otherwise given or imposed in this Lease to alter, modify, Demolish, Restore or construct Improvements, or as limiting any provisions relating to Condemnation or damage and destruction.

(e) Notice. Tenant shall deliver to Landlord, promptly after receipt, a copy of any notice which Tenant may receive from time to time: (i) from the Office of the Commissioner of Baseball and/or other Major League Baseball authorities, asserting that the Ballpark fails to meet any applicable requirements of Baseball Rules and Regulations; or (ii) from any governmental authority having responsibility for the enforcement of any applicable Laws (including Disabled Access Laws or Hazardous Materials Laws), asserting that the Ballpark is in violation of such Laws; or (iii) from the insurance company issuing or responsible for administering one or more of the insurance policies required to be maintained by Tenant under Section 18, asserting that the Ballpark fails to satisfy the requirements of such insurance policy or policies. Tenant shall not be deemed to be in default of any provisions of this Lease relating to its obligations to maintain or repair the Premises, or to comply with applicable Laws,

by virtue of the fact that a notice described in this Section has been given to Tenant (or to Landlord), whether or not the facts alleged in such notice are true.

8.2 Facilities Condition Report.

Beginning on the fifth (5th) anniversary of the first Baseball Home Game played in the Ballpark and continuing every five (5) years thereafter through the remainder of the Initial Term of this Lease, and thereafter at least once in each Extended Term at least two (2) years before the expiration of such Extended Term, Tenant shall deliver to Landlord a copy of facilities condition report prepared by a qualified contractor. The report shall describe at a minimum the condition and structural integrity of the Project, including the condition of all major building systems.

SECTION 9. IMPROVEMENTS

9.1 Tenant's Obligation to Construct the Initial Improvements.

Tenant shall construct the Initial Improvements in accordance with, and subject to all the terms, covenants, conditions and restrictions in, the DDA. Landlord's issuance and recordation of a Certificate of Completion pursuant to the DDA, shall conclusively establish Tenant's satisfactory completion of such construction, except for the completion of any Deferred Items (as defined in the DDA), which Tenant shall be obligated to complete under Section 1.4 of this Lease. Any Subsequent Construction shall be performed in accordance with Section 10.

9.2 Title to Improvements.

During the Term of this Lease, Tenant shall own all of the Improvements constructed on the Premises by or on behalf of Tenant pursuant to the DDA or this Lease, including all Subsequent Construction and all appurtenant fixtures, machinery and equipment installed therein (except for trade fixtures and other personal property of Subtenants). At the expiration or earlier termination of this Lease, title to the Improvements, including appurtenant fixtures (but excluding trade fixtures and other personal property of Tenant and its Subtenants), will vest in Landlord without further action of any Party, and without compensation or payment to Tenant (except to the extent any such earlier termination of this Lease may be due to, or constitute, a Condemnation by Redevelopment Agency, City, any of City's boards, commissions, departments, agencies and other subdivisions, including the Port, or any joint powers authority or similar entity Specially Controlled by any of the foregoing, of any property of Tenant or any of its Subtenants). Tenant and its Subtenants shall have the right at any time, or from time to time, including, without limitation, at the expiration or upon the earlier termination of the Term of this Lease, to remove trade fixtures and other personal property from the Premises.

9.3 Tenant to Furnish and Equip the Improvements.

Prior to the expiration or earlier termination of the Non-Relocation Agreement, or thereafter for so long as Major League Baseball continues to be played in the Ballpark, Tenant covenants and agrees to furnish and equip the Ballpark, or to cause others to furnish and equip the Ballpark, with all fixtures, furniture, furnishings, equipment, machinery, supplies and other Personal Property as may be required to operate the Ballpark in compliance with Baseball Rules and Regulations.

SECTION 10. SUBSEQUENT CONSTRUCTION

10.1 Landlord's Right to Approve Subsequent Construction.

(a) Construction Requiring Approval. Tenant shall have the right, from time to time during the Term, to perform Subsequent Construction in accordance with the provisions of this Section 10, provided that Tenant shall not, without Landlord's prior written approval (which approval will not be unreasonably withheld, conditioned or delayed):

(i) Construct additional buildings or other additional structures, other than to replace or Restore previously existing Improvements (except that Landlord's approval shall not be required for additional structures the cost of which does not exceed Five Hundred Thousand Dollars ($500,000), as Indexed);

(ii) Increase the bulk or height of any Improvements (including the light standards for the Ballpark) beyond the bulk or height approved for the Initial Improvements;

(iii) Materially alter the exterior architectural design of any Improvements (other than storefronts, subject to Section 10.3, or changes reasonably required to conform to changes in applicable Law);

(iv) Materially increase the load of the Improvements on the pier substructure or bulkhead wall;

(v) Perform Subsequent Construction to the Waterfront Promenade or other Public Access Areas, or to the Ferry Landing Facilities, that would materially adversely affect (other than temporarily during the period of such Subsequent Construction) the public access to, or the use or appearance of, the Waterfront Promenade, such other Public Access Areas or Ferry Landing Facilities, as the case may be;

(vi) Perform Subsequent Construction that would materially alter or modify any Improvements the cost of which was paid, in whole or part, with proceeds of the Tax Allocation Bonds;

(vii) Subject to the rights of Mortgagees as specified in this Lease, perform Subsequent Construction to the Ballpark that would materially adversely and permanently impair (other than temporarily during the period of such Subsequent Construction) the functionality of the Ballpark as a venue for the exhibition of Major League Baseball games.

(b) Notice by Tenant. At least thirty (30) days before commencing any Subsequent Construction which could reasonably be anticipated to cost more than Five Hundred Thousand Dollars ($500,000), as Indexed, Tenant shall notify Landlord of such planned Subsequent Construction, and whether or not, in Tenant's good faith judgment, such Subsequent Construction requires Landlord's approval. Such notice shall be accompanied by Final Construction Documents for such Subsequent Construction. Within twenty (20) days after receipt of such notice from Tenant, Landlord shall have the right to object to any such Subsequent Construction, to the extent that such Subsequent Construction requires Landlord's approval.

(c) Permits. Tenant acknowledges that the provisions of this section are subject to Sections 6.2(a) and 10.7(a)(ii). In particular, Tenant acknowledges that Landlord's approval of Subsequent Construction (or the fact that Tenant is not required to obtain Landlord's approval) does not alter Tenant's obligation to obtain all Regulatory Approvals and all permits required by applicable Law to be obtained from governmental agencies having jurisdiction, including, where applicable, from the Port itself in its regulatory capacity.

(d) Reasonable Grounds. Tenant acknowledges and agrees that prior to the expiration or earlier termination of the Non-Relocation Agreement (or thereafter for so long as Major League Baseball continues to be played in the Ballpark), and subject to the rights of Mortgagees as specified in this Lease, it shall be reasonable for Landlord to withhold its approval of proposed Subsequent Construction which would materially adversely impair (other than temporarily during the period of such Subsequent Construction) the functionality of the Ballpark as a venue for the exhibition of Major League Baseball games.

10.2 Minor Alterations.

Notwithstanding Section 10.1, Landlord's approval hereunder shall not be required for (a) the installation, repair or replacement of furnishings, fixtures, equipment or decorative improvements which do not materially affect the structural integrity of the Improvements, (b) recarpeting, repainting, groundskeeping, or similar alterations or (c) any other Subsequent Construction which does not require a building permit, BCDC permit or approval of the Port under the Port's Rules and Regulations (collectively, "Minor Alterations").

10.3 Storefronts and Interior Alterations.

Notwithstanding Section 10.1, Landlord's approval hereunder shall not be required for the installation of tenant improvements and finishes to prepare portions of the Premises (other than the Ballpark) for occupancy or use by Subtenants, provided that the foregoing shall not alter Tenant's obligation to obtain any required Regulatory Approvals and permits, including, as applicable, a building permit from the Port, acting in its regulatory capacity.

10.4 Construction Documents in Connection with Subsequent Construction.

(a) Preparation, Review and Approval of Construction Documents. With regard to any Subsequent Construction which requires Landlord's approval under this Section 10, Tenant shall prepare and submit to Landlord, for review and written approval hereunder, reasonably detailed Schematic Drawings, and following Landlord's approval of such Schematic Drawings, Final Construction Documents which are consistent with the approved Schematic Drawings (collectively, Schematic Drawings and Final Construction Documents are referred to as "Construction Documents"). Construction Documents shall be prepared by a duly licensed and qualified architect or structural engineer. Landlord shall approve or disapprove Construction Documents submitted to it for approval within thirty (30) days after submission. Any disapproval shall state in writing the reasons for disapproval. If Landlord deems the Construction Documents incomplete, Landlord shall notify Tenant of such fact within fifteen (15) days after submission and shall indicate which portions of the Construction Documents it deems to be incomplete. If Landlord notifies Tenant that the Construction Documents are incomplete, such notification shall constitute a disapproval of such Construction Documents. If Landlord disapproves Construction Documents, and Tenant revises or supplements, as the case may be, and resubmits such Construction Documents in accordance with the provisions of Section 10.5, Landlord shall review the revised or supplemented Construction Documents to determine whether the revisions satisfy the objections or deficiencies cited in Landlord's previous notice of rejection, and Landlord shall approve or disapprove the revisions to the Construction Documents within fifteen (15) days after resubmission. Subject to the provisions of Section 39.2, if Landlord fails to approve or disapprove Construction Documents (including Construction Documents which have been revised or supplemented and resubmitted) within the times specified within this Section 10.4, such failure shall not constitute a default under this Lease on the part of Landlord, but such Construction Documents shall be deemed approved.

(b) Progress Meetings; Coordination. From time to time at the request of either Party during the preparation of Construction Documents, Landlord and Tenant shall hold regular progress meetings to coordinate the preparation, review and approval of the Construction Documents. Landlord and Tenant shall communicate and consult informally as frequently as is necessary to ensure that the formal submittal of any Construction Documents to Landlord can receive prompt and speedy consideration.

10.5 Landlord Approval of Construction Documents.

Upon receipt by Tenant of a disapproval of Construction Documents from Landlord, Tenant (if it still desires to proceed) shall revise such disapproved portions of such Construction Documents in a manner that addresses Landlord's written objections. Tenant shall resubmit such revised portions to Landlord as soon as possible after receipt of the notice of disapproval. Landlord shall approve or disapprove such revised portions in the same manner as provided in Section 10.4 for approval of Construction Documents (and any proposed changes therein) initially submitted to Landlord. If Tenant desires to make any substantial change in the Final Construction Documents after Landlord has approved them, then Tenant shall submit the proposed change to Landlord for its reasonable approval. Landlord shall notify Tenant in writing of its approval or disapproval within fifteen (15) days after submission to Landlord. Any disapproval shall state, in writing, the reasons therefor, and shall be made within such fifteen (15)-day period.

10.6 Construction Schedule.

(a) Performance. Tenant shall prosecute all Subsequent Construction with reasonable diligence, subject to Force Majeure.

(b) Reports and Information. During periods of construction, Tenant shall submit to Landlord written progress reports when and as reasonably requested by Landlord, but not more frequently than once every three (3) months, except that during the last three (3) months during any period of such construction, Landlord may request that such reports be submitted monthly. Tenant may satisfy the foregoing requirement by providing Landlord with copies of progress reports it submits to its Mortgagee.

10.7 Construction.

(a) Commencement of Construction. Tenant shall not commence any Subsequent Construction until the following conditions have been satisfied or waived by Landlord:

(i) Landlord shall have approved the Final Construction Documents (or those aspects of the Final Construction Documents as to which Landlord has an approval right under Section 10.1);

(ii) Tenant shall have obtained all permits and other Regulatory Approvals necessary to commence such construction in accordance with Section 6;

(iii) Tenant shall have submitted to Landlord in writing its good faith estimate, either that the anticipated total construction costs of the Subsequent Construction will be less than Two Million Five Hundred Thousand Dollars ($2,500,000), as Indexed; or if the

anticipated construction costs are in excess of Two Million Five Hundred Thousand Dollars ($2,500,000), as Indexed, the amount of Tenant's current good faith estimate of such costs, together with evidence reasonably satisfactory to Landlord of Tenant's ability to pay such costs as and when due.

(b) Construction Standards. All Subsequent Construction shall be accomplished expeditiously, diligently and in accordance with good construction and engineering practices and applicable Laws. Tenant shall undertake commercially reasonably measures to minimize damage, disruption or inconvenience caused by such work and make adequate provision for the safety and convenience of all persons affected by such work. Dust, noise and other effects of such work shall be controlled using commercially-accepted methods customarily used to control deleterious effects associated with construction projects in populated or developed urban areas. In addition, in the case of Subsequent Construction which begins after the Improvements have opened for business to the general public, Tenant shall erect construction barricades substantially enclosing the area of such construction and maintain them until the Subsequent Construction has been substantially completed, to the extent reasonably necessary to minimize the risk of hazardous construction conditions.

(c) Costs of Construction. Landlord shall have no responsibility for costs of any Subsequent Construction. Tenant shall pay (or cause to be paid) all such costs.

(d) Rights of Access. During any period of Subsequent Construction, Landlord and its Agents shall have the right to enter areas in which Subsequent Construction is being performed, on reasonable prior notice during customary construction hours, subject to the rights of Subtenants (including the Subtenant under the Baseball Sublease) and to Tenant's right of quiet enjoyment under this Lease, to inspect the progress of the work. Nothing in this Lease, however, shall be interpreted to impose an obligation upon Landlord to conduct such inspections or any liability in connection therewith.

(e) Prevailing Wages. Tenant agrees to pay or cause to be paid prevailing rates of wages for all Subsequent Construction which requires Landlord's approval under this Section, in accordance with the provisions of Exhibit H.

10.8 Safety Matters.

Tenant, while performing any Subsequent Construction or maintenance or repair of the Improvements (for purposes of this Section only, "Work"), shall undertake commercially reasonable measures in accordance with good construction practices to minimize the risk of injury or damage to adjoining portions of the Premises and Improvements and the surrounding property, or the risk of injury to members of the public, caused by or resulting from the performance of its Work.

10.9 As-Built Plans and Specifications.

With respect to any Subsequent Construction costing $100,000 as Indexed, or more, for which Landlord's approval was required under Section 10, Tenant shall furnish to Landlord one set of as-built plans and specifications with respect to such Subsequent Construction within one hundred twenty (120) days following completion. If Tenant fails to provide such as-built plans and specifications to Landlord within the time period specified herein, and such failure continues for an additional thirty (30) days following written request from Landlord, Landlord will thereafter have the right to cause an architect or surveyor selected by Landlord to prepare as-built plans and specifications showing such Subsequent Construction, and the reasonable cost of preparing such plans and specifications shall be reimbursed by Tenant to Landlord as Additional Rent. Nothing in this Section shall limit Tenant's obligations, if any, to provide plans and specifications in connection with Subsequent Construction under applicable regulations adopted by Landlord in its regulatory capacity.

SECTION 11. UTILITY SERVICES

11.1 Utility Services.

(a) Provision of Services. Landlord, in its proprietary capacity as owner of the Property and Landlord under this Lease, shall not be required to provide any utility services to the Premises or any portion of the Premises. Tenant and its Subtenants shall be responsible for contracting with, and obtaining, all necessary utility and other services, as may be necessary and appropriate to the uses to which the Premises are put (it being acknowledged that City (including its Public Utilities Commission) is the sole and exclusive provider to the Premises of certain public utility services). Tenant will pay or cause to be paid as the same become due all deposits, charges, meter installation fees, connection fees and other costs for all public or private utility services at any time rendered to the Premises or any part of the Premises, and will do all other things required for the maintenance and continuance of all such services. Tenant agrees, with respect to any public utility services provided to the Premises by City, that no act or omission of City in its capacity as a provider of public utility services, shall abrogate, diminish, or otherwise affect the respective rights, obligations and liabilities of Tenant and Landlord under this Lease, or entitle Tenant to terminate this Lease or to claim any abatement or diminution of Rent. Further, Tenant covenants not to raise as a defense to its obligations under this Lease, or assert as a counterclaim or cross-claim in any litigation or arbitration between Tenant and Landlord relating to this Lease, any Losses arising from or in connection with City's provision (or failure to provide) public utility services, except to the extent that failure to raise such claim in connection with such litigation would result in a waiver of such claim. The foregoing shall not constitute a waiver by Tenant of any claim it may now or in the future have (or claim to have) against any such public utility provider relating to the provision of (or failure to provide) utilities to the Premises.

(b) Antennae and Telecommunications Dishes. No antennae or telecommunications dish may be installed on the Premises following completion of the Initial Improvements without the prior written approval of Landlord, which approval shall not be unreasonably withheld, conditioned or delayed. Landlord acknowledges that a significant number of antennae and telecommunications dishes will be required for the operation of the Project and the broadcasting and other transmission of Baseball Home Games and Other Events. In addition, Tenant agrees, at the request of Landlord or City, to enter into good faith discussions regarding a possible license or other agreement for the placement by the City of transmission equipment for City's emergency or 800 MHz City-wide radio system communications facilities, at a location on the Premises acceptable to Tenant. Landlord acknowledges that any such license may contain, among other provisions, requirements that City provide insurance and/or Indemnify Tenant and specified other Persons with respect to Losses arising from City's activities under such license or the presence of City's equipment on the Premises.

11.2 Hetch-Hetchy Power.

At City's request from time to time, Tenant agrees to negotiate in good faith with respect to the possible provision of electricity and natural gas to the Improvements by the City's utility, Hetch-Hetchy Water and Power, at rates not exceeding then-prevailing market rates for comparable types of services and loads. Under no circumstances, however, shall the failure of Tenant to contract with City or any City utility company for the provision of utility services give rise to a default hereunder. Landlord agrees that at all times during the Term, Tenant and its Subtenants shall be entitled to negotiate freely with, and to enter freely into contracts for the provision of public utility services with, any public utility provider, without Landlord's consent. Landlord also acknowledges that Tenant's ability to negotiate as provided by the first sentence of this Section may be limited from time to time by contractual obligations and arrangements then existing between Tenant and competing public utility companies.

SECTION 12. DAMAGE OR DESTRUCTION

12.1 General; Notice; Waiver.

(a) General. If, at any time during the Term, a fire or other casualty causes damage to or destruction of the Premises, including any Improvements located on the Property, the rights and obligations of the Parties shall be as set forth in this Section 12.

(b) Notice. If the Premises, including the Improvements, or any part thereof, are damaged or destroyed by fire or other casualty, to an extent reasonably likely, in Tenant's good faith estimation, (i) to cost more than Two Hundred Fifty Thousand Dollars ($250,000) to repair or restore, or (ii) to prevent the use or operation of the Improvements (or the affected portion) for their intended purposes for a continuous period of six (6) months of more, then Tenant shall promptly, but not more than twenty (20) days after the occurrence of the event

causing such damage or destruction, give written notice thereof to Landlord describing in reasonable particularity the nature and extent of such damage or destruction.

(c) Waiver. Landlord and Tenant each hereby waive the provisions of Sections 1932(2) and 1933(4) of the California Civil Code, as such sections may from time to time be amended, replaced, or restated.

12.2 Rent Following Damage or Destruction.

Except as otherwise provided in Section 12.3, this Lease shall not terminate, and except as otherwise provided in Section 12.5, Tenant's obligation to pay Rent shall not abate, as the result of damage to or destruction of the Premises, including the Improvements, or any portion thereof.

12.3 Damage or Destruction to Improvements.

(a) Tenant's Obligation to Restore. Except as otherwise provided in this Section 12, Tenant shall, within a reasonable time following the occurrence of any event which causes damage to or destruction of the Improvements, commence and diligently and continuously pursue to completion, subject to Force Majeure, the Restoration of the Improvements, without regard to the amount or availability of insurance proceeds. All Restoration by Tenant shall be performed in accordance with the provisions of Section 10 relating to Subsequent Construction, and shall be at no cost to Landlord. Notwithstanding the foregoing, however, if, following the Commencement Date and before Completion of the Initial Improvements under the DDA, a fire or other casualty causes damage or destruction of the improvements existing on the Property as of the Commencement Date, Tenant shall not be required to Restore any such improvements, except to the extent that repairs to or restoration of the bulkhead wall and/or pier substructure may be necessary to provide structural support to the contemplated Initial Improvements. In addition, if a fire or other casualty causes damage or destruction to the Initial Improvements prior to the issuance of a Certificate of Completion pursuant to the DDA, then notwithstanding any other provisions hereof, any insurance proceeds payable as a result of such damage or destruction may be applied by Tenant either to pay costs of Restoration or to pay costs of construction under the DDA. In addition, if such damage or destruction results in a delay in the scheduled Completion of construction of the Initial Improvements (whether due to the time required to Restore any damage to the Improvements, the delay in other construction which reasonably results from the requirement that Restoration be performed, the time required to settle insurance claims, or otherwise), Tenant shall not be deemed to be in default hereunder or under the DDA as a consequence of any such delays, and the Force Majeure provisions hereof and of the DDA shall apply to any such delay.

(b) Option to Demolish. If any of the events described in Section 12.3(c) occur, Tenant shall have the option, in lieu of Restoring the Improvements, to terminate this Lease and Demolish the Improvements, subject to the rights of Mortgagees and the provisions of

Sections 12.3(g) and 12.3(h) below. Tenant shall exercise such option, if at all, by delivering written notice to Landlord within ninety (90) days after delivery of Tenant's notice under Section 12.1(b) of the event causing such damage or destruction. If Tenant exercises its option to terminate under this subsection, this Lease shall terminate, effective as of the date of the event causing such damage or destruction, except that (subject to Section 12.3(h) below) Tenant shall be permitted to remain in possession of the Premises following such termination during the Demolition Period specified in Section 34.2(c), in order to complete the Demolition. If Tenant elects to terminate this Lease and Demolish the Improvements, any insurance proceeds payable on account of such damage or destruction under insurance policies required to be maintained under this Lease shall be allocated by and among Tenant, Landlord and any Mortgagees in accordance with the provisions of Section 12.4(c). Following its receipt of Tenant's notice electing Demolition, however, Landlord may, by delivering written notice to Tenant within thirty (30) days thereafter (or within such longer period, not exceeding ninety (90) additional days, as Landlord may specify by notice given to Tenant within the initial 30-day period, provided that no Minimum Rent shall be payable under this Lease during any such additional period, or during any resulting extension of the Demolition Period), (1) elect to require Tenant to deliver possession of the Premises in their then existing condition, subject to the rights of any Subtenants then remaining in possession and without obligation on the part of Tenant to perform any Demolition, in which case such insurance proceeds shall be allocated by an among Tenant, Landlord and any Mortgagees in accordance with Section 12.4(c), except for the provisions of Section 12.4(c)(iii) or (2) elect, in its sole and absolute discretion (without any obligation to do so) to pay the amount above the thresholds specified in subsection (c)(ii) below, provided, however, that if Landlord elects this alternative, the Parties shall negotiate in good faith during such period (as the same may be extended under the previous provisions of this sentence) to reach an agreement between them, which is also satisfactory to any Mortgagees, with respect to the schedule for performance of required work, the timing of payments of Landlord's contribution to the costs of such work, and any other related issues which may be necessary or appropriate for resolution in connection with such work and the payment for such work. If no satisfactory agreement is reached within such period, this Lease shall terminate pursuant to Tenant's election to terminate, and Tenant shall proceed with Demolition, subject to Section 12.3(h), (with appropriate extension of the Demolition Period to account for the delay caused by the foregoing procedure), unless Landlord elects, by written notice given within such period, to have clause (1) above apply instead. If Landlord and Tenant reach an agreement with regard to such issues which is approved by the Mortgagees, then Landlord shall pay such costs in accordance with the terms of such agreement and this Lease shall remain in full force and effect, subject to the terms and provisions of such agreement.

(c) Events Permitting Demolition. Tenant shall be entitled to exercise the option to terminate this Lease and Demolish the Improvements, rather than Restore the Improvements, only in any of the following instances:

(i) If Major Damage to the Improvements occurs at a time when less than five (5) years remain on the Initial Term of this Lease, or at any time during any Extended Term.

(ii) If, at any time during the Term, damage or destruction occurs, and the cost of Restoration (including the cost of any required code upgrades) will exceed the net proceeds of any insurance payable (or which would have been payable but for Tenant's default in its obligation to maintain insurance required to be maintained hereunder) by at least:

(A) Fifteen Million Dollars ($15,000,000) (plus the amount of any applicable policy deductible, except in the case of damage or destruction caused by earthquake or flood), if such damage or destruction occurs during the first ten (10) years of the Initial Term,

(B) Ten Million Dollars ($10,000,000) (plus the amount of any applicable policy deductible, except in the case of damage or destruction caused by earthquake or flood), if such damage or destruction occurs during the next (10) years of the Initial Term after the expiration of the period described in clause (A) above, or

(C) The cost of Demolition (plus the amount of any applicable policy deductible, except in the case of damage or destruction caused by earthquake or flood), if such damage or destruction occurs when less than five (5) years remain on the Initial Term of this Lease, or at any time during any Extended Term.

(iii) If, at any time during the Term, the Subtenant under the Baseball Sublease validly cancels or terminates the Baseball Sublease as a result of the occurrence of damage or destruction to the Improvements, pursuant to and in accordance with the provisions of the Baseball Sublease, as previously approved by Landlord and subject to Landlord's cure and other rights under the Non-Relocation Agreement, notwithstanding Tenant's compliance with the provisions of Section 38.1.

(d) Definition of Major Damage. As used in this Section, "Major Damage" to the Improvements means damage to, or destruction of, the Improvements then existing on the Property to the extent that the cost of Restoration will exceed fifty percent (50%) of the cost to replace all Improvements then existing on the Property in their entirety. The calculation of such percentage shall be based upon replacement costs and requirements of applicable Laws in effect as of the date of the event causing such Major Damage. In the event Landlord and Tenant cannot mutually agree upon such replacement value or cost, or the percentage of such damage or destruction, such value, cost or percentage shall be determined in accordance with the provisions of Section 12.6.

(e) Effect of Termination. If this Lease is terminated by operation of the provisions of this Section 12, the Parties shall have no further obligations to each other under

this Lease following the effective date of such termination, subject to payment to Landlord of accrued and unpaid Rent up to the effective date of such termination; and provided, however, that the indemnification provisions hereof shall survive any such termination with respect to matters arising before the date of any such termination and with respect to any use of the Premises for Demolition and other rights to enter as are allowed by this Section after such date of termination. In addition, termination of this Lease under this Section 12 shall not limit the right of a Mortgagee to a new lease under Section 42.12 unless such Mortgagee has agreed otherwise. At Landlord's request following any such termination, Tenant shall deliver to Landlord a duly executed and acknowledged quitclaim deed suitable for recordation in the Official Records and in form and content satisfactory to Landlord and the City Attorney.

(f) Restoration of Public Improvements. In the event of damage or destruction to any Improvements the cost of which was paid or reimbursed by the Redevelopment Agency pursuant to the OPA, Tenant shall restore such Improvements upon written demand by Landlord, notwithstanding Tenant's election to Demolish the remaining Improvements (provided that the cost of such Restoration shall be deemed a cost of Demolition for purposes of Section 12.4(c)(iii)), if, in Landlord's reasonable judgment such Improvements will continue, following Restoration, to provide their intended public benefit, notwithstanding the Demolition of the remaining Improvements, and, provided, that in lieu of Restoring such Improvements (and/or paying the cost of such Restoration), Tenant may elect to have paid from available insurance proceeds (and such payment will be treated as a cost of Demolition under Section 12.4(c)(iii)), an amount equal to the lesser of (a) the remaining principal balance of an amortization calculation whereby the original construction cost of said Improvements is amortized over the term specified in the OPA at an interest rate equal to the rate of interest paid on the Tax Allocation Bonds issued to finance the cost of such public improvements, or (b) the present value (discounted at an interest rate equal to the interest rate payable on such Tax Allocation Bonds) of three years' installments of that portion of the possessory interest taxes on the Premises which is fairly allocable to the cost of paying debt service on such Tax Allocation Bonds.

(g) Standstill Agreement. If Tenant gives notice to Landlord under Section 12.3(b) electing to terminate this Lease due to the occurrence of any of the events described in Section 12.3(c)(ii), Landlord may, within thirty (30) days after receipt of such notice, give notice to Tenant that it elects to suspend Tenant's notice of termination for a period not exceeding one year (the "Standstill Period") in order to conduct good-faith negotiations towards the end of preserving (whether by Restoration or otherwise) the Property as a venue for Major League Baseball. The parties acknowledge that such discussions may encompass proposals to finance the cost of Restoring the Ballpark (to the extent insurance proceeds may be inadequate to pay such costs), or to Demolish the Ballpark and construct a new ballpark, or other proposals. No Minimum Rent shall be payable under this Lease during the Standstill Period. Landlord may terminate the Standstill Period at any time prior to its expiration on at least thirty (30) days prior written notice to Tenant. During the Standstill Period, the Parties shall negotiate in good faith with respect to any proposals either may wish to advance that may operate to

preserve the Property as a venue for Major League Baseball, and neither Party shall have any obligation to enter into any agreement except in its sole discretion. If Tenant and Landlord have not reached agreement by the end of the Standstill Period, then this Lease shall thereupon terminate pursuant to Tenant's original termination notice, and the remaining provisions of this Section 12.3 shall apply, with appropriate adjustments to reflect the effect of the resulting delay. If, during the Standstill Period, repairs must be made to eliminate imminent risks to public health or safety ("Safety Repairs"), the cost of such Safety Repairs may be advanced from available insurance proceeds. If there are insufficient insurance proceeds to pay the costs of such Safety Repairs, the Standstill Period shall terminate unless Landlord agrees, within thirty (30) days after the need for such Safety Repairs becomes evident, to pay the cost of such Safety Repairs. In addition, if costs of Safety Repairs are advanced from insurance proceeds, and no agreement is otherwise reached under this paragraph within the Standstill Period and this Lease terminates, then Landlord shall be responsible for repaying any portion of such costs fairly attributable to the delay (for example, the cost of Safety Repairs to facilities which are subsequently required to be Demolished), to the extent that such costs exceed amounts Tenant would otherwise have had to pay if Landlord had not exercised its right to require a Standstill Period. Notwithstanding the foregoing, Landlord shall not have the right to suspend Tenant's notice of termination of this Lease without the consent of the Mortgagees, unless there are sufficient insurance proceeds available to pay (A) the costs of Safety Repairs (in excess of the amount which Tenant would otherwise be required to pay if there was no Standstill Period) and (B) all Mortgages in full (including debt service during the Standstill Period). In such case, Landlord may suspend Tenant's exercise of its option to terminate this Lease, but any subsequent agreement under this Section which materially impairs the security or otherwise materially adversely affects the rights of interests of any Mortgagee shall be subject to such Mortgagee's approval.

(h) Liquidation of Cost of Demolition. If at any time after Tenant has given notice exercising the Option for the second Extended Term, this Lease is terminated under this Section 12 under circumstances which require Tenant to Demolish, Tenant may elect, by delivering written notice to Landlord within thirty (30) days following the beginning of the Demolition Period, to pay to Landlord, in lieu of performing such Demolition, and in full liquidation and satisfaction of its obligation to Demolish the Improvements, a Termination Payment in the amount specified in Section 6.1(g). If Tenant elects to make the Termination Payment, this Lease shall terminate on the date such Payment is delivered to Landlord, and the provisions of Section 12.3(e) shall apply. Effective upon such termination, Tenant shall surrender possession of the Premises in their then-existing condition, subject to any existing Subleases and with no obligation on the part of Tenant to perform any Demolition or Restoration, and any available insurance proceeds shall be allocated in accordance with Section 12.4(c), except that Section 12.4(c)(ii) shall be deemed amended to read as follows: "second, to Tenant (subject to the rights of Non-Affiliate Mortgagees), in an amount equal to any Termination Payment paid to Landlord under Section 12.3(h);". In addition, if Tenant does not exercise its right to pay the Termination Payment within the 30-day period following the start of the Demolition Period, Landlord shall have the right to deliver notice to Tenant, within ten (10) days after the end of such 30-day period, requiring Tenant to pay the Termination Payment in

lieu of performing Demolition, in which case all of the provisions of this Section 12.3(h) will apply as if Tenant had given notice under this Section.

12.4 Use of Insurance Proceeds.

(a) Restoration. Subject to the rights of any Mortgagee as set forth in this Lease, all proceeds payable by reason of damage to or destruction of any Improvements (other than business interruption insurance) under property damage insurance required to be carried under this Lease shall be made available to Tenant to pay costs of Restoration pursuant to this Lease, except as otherwise provided in this Section 12. A Mortgage may encumber Tenant's interest in insurance proceeds payable as a result of damage to, or destruction of, the Premises. Any Mortgage which encumbers Tenant's interest in insurance proceeds must provide, however, that all such insurance proceeds will be made available to Tenant to pay costs of Restoration, so long as Tenant can demonstrate to the reasonable satisfaction of Mortgagee that:

(i) funds will be available to pay: (A) the amount, if any, by which the anticipated cost of Restoration exceeds available insurance proceeds, and (B) the amount, if any, by which scheduled debt service payments due on the Mortgage, plus Rent payable under this Lease, plus possessory interest taxes payable during the reasonably estimated period during which the Restoration will be conducted, exceeds the gross revenues reasonably anticipated from Subleases and other sources (including proceeds of any available business interruption or similar insurance policies) with respect to such period; and

(ii) following completion of the Restoration, the projected ratio of Net Operating Income to scheduled annual debt service under the note secured by such Mortgage will be at least one hundred five percent (105%). For purposes of the foregoing, Net Operating Income means gross receipts anticipated to be received during the twelve (12) month period following completion of such Restoration from Subtenants under Subleases in effect at the time of the calculation, and if any such Subleases may terminate or have terminated as a result of such damage and destruction, the reasonably anticipated gross receipts under replacement Subleases, less all amounts anticipated to be incurred for the operation or maintenance of the Premises for such twelve (12) month period, including Rent under this Lease, possessory interest taxes, and premiums of required insurance, but excluding depreciation and scheduled debt service under such note.

A Mortgage which encumbers insurance proceeds payable on account of damage to or destruction of the Premises may also contain commercially reasonable provisions relating to the protection of the Mortgagee's security interest in connection with the Restoration, such as provisions for the review and approval by Mortgagee (such approval not to be unreasonably withheld or delayed) of plans and specifications for the Restoration, the professional qualifications of the general contractor performing the Restoration, procedures for the periodic

disbursement of funds during the course of Restoration, and the like. Notwithstanding the foregoing, however, a Mortgage which encumbers insurance proceeds payable on account of damage to or destruction of the Premises shall in every instance permit disbursement from such proceeds of amounts necessary to perform Safety Repairs. For purposes of Section 12.3(c)(ii), any insurance proceeds which a Mortgagee fails or refuses to permit to be used to pay costs of Restoration shall be excluded from the determination of "net proceeds" under such section.

(b) Disbursements of Insurance Proceeds for Restoration. If Tenant is required to Restore the Improvements, all proceeds in excess of Two Million Five Hundred Thousand Dollars ($2,500,000) payable to Landlord, Tenant or any Mortgagee on account of damage to or destruction of any of the Improvements (other than business interruption insurance) under any property damage (including earthquake) insurance policy required to be carried under this Lease shall be deposited with (i) a bank or trust company having an office in San Francisco, as trustee, such trustee to be selected by Tenant and reasonably satisfactory to Landlord, or (ii) the Mortgagee holding any Mortgage, at the option of such Mortgagee (and in order of priority if there is more than one Mortgagee). However, it is understood that, upon satisfaction of the conditions specified in Section 12.4(a), all amounts collected on any such policies shall be made available to Tenant, and shall be paid out by Tenant, such trustee, or Mortgagee, as the case may be, from time to time as the work of rebuilding, reconstruction and repair shall progress, for costs of such Restoration. Tenant shall pay all reasonable fees of the trustee for its services. If the proceeds payable on account of damage to or destruction of the Improvements (other than business interruption insurance) under any property damage (including earthquake) insurance policies required to be carried under this Lease is less than or equal to Two Million Five Hundred Thousand Dollars ($2,500,000), then such proceeds shall be paid over to Tenant without the necessity of payment to the trustee as otherwise provided for above, except to the extent payment to the trustee is required by any Mortgage. Payment to Tenant shall not be construed as relieving Tenant from the necessity of Restoring the Improvements in accordance with the terms of this Lease. Upon completion of the Restoration, any funds remaining on deposit with the trustee or Mortgagee after payment of all costs of the Restoration and payment of any sums then due and payable to Landlord under this Lease, shall be paid to Tenant, subject to the rights of Mortgagees under their respective Mortgages.

(c) Allocation of Property Insurance Proceeds upon Demolition. If Tenant elects to Demolish the Improvements, the proceeds payable on account of damage to or destruction of any of the Improvements under any property damage insurance policies (other than business interruption insurance) required to be carried hereunder shall be allocated by and among Tenant, Landlord and any Mortgagees in the following order of priority:

(i) first, to Landlord, in an amount equal to any accrued and unpaid Rent owed by Tenant to Landlord under this Lease;

(ii) second, to pay costs of Demolition (but not more than Three Million Dollars ($3,000,000), if the casualty which caused such damage or destruction was an earthquake or flood);

(iii) third, to each Non-Affiliate Mortgagee demanding payment of its Mortgage in accordance with its Non-Affiliate Mortgage and applicable Law (in order of lien priority);

(iv) fourth, to pay costs of Demolition, if any, not paid under clause (ii) above;

(v) fifth, to Landlord, in an amount equal to the Minimum Rent scheduled to become due following the date of the event causing damage or destruction for the lesser of three (3) years or the remainder of the Term (each such installment of Minimum Rent to be discounted to present value at an annual interest rate equal to twice the "apportionment rate" (as that term is defined in Section 1268.350 of the California Code of Civil Procedure) quoted by the California Department of Transportation for the six-month period ending on the June 30 or December 31 immediately preceding the date of the event causing the damage or destruction;

(vi) sixth, to each other Mortgagee demanding payment of its Mortgage in accordance with its Mortgage and applicable Law (in order of lien priority); and

(vii) seventh, the remainder to Tenant.

In the event of an earthquake or flood, if the insurance proceeds are insufficient to pay the costs described in clause (iv) above, then Tenant shall assign to Landlord any and all rights to apply for and receive (or, at Landlord's request, directly apply for, for Landlord's benefit) any available federal or state emergency relief or similar assistance, up to the amount of the costs necessary to complete Demolition.

(d) Proceeds Subject to Control of Mortgagee. If the conditions set forth in Section 12.4(a) for disbursement of insurance proceeds to Tenant are not satisfied, and as a result, a Mortgagee fails or refuses to permit disbursement of insurance proceeds otherwise payable to Tenant for the payment of costs of Restoration (other than for costs of Safety Repairs), and instead requires such insurance proceeds to be applied to payment of its Mortgage, then a portion of such insurance proceeds, in the amount specified in this Section 12.4(d) (the "Reserve Fund") shall be deposited in trust with Landlord or with an escrow company satisfactory to Landlord and such Mortgagee, to be released to Landlord or the Mortgagee, as applicable, not later than two (2) years following the date of damage or destruction. If alternate financing of the cost of Restoration can be obtained such that the work of Restoration is completed within such two (2) year period, or if such work has commenced but has not yet been completed, but the Subtenant under the Baseball Sublease has agreed not to terminate its Sublease for so long as such work is thereafter diligently prosecuted to completion, then the

Reserve Fund will be released to Mortgagee, not later than the date two (2) years following the date of damage or destruction. Otherwise, the Reserve Fund shall be released to Landlord. The amount of the Reserve Fund shall be the lesser of (A) the estimated cost of Demolition up to the amount specified in Section 12.4(c)(ii), or (B) the present value (computed in the manner specified below) of the Minimum Rent scheduled to become due during the three year period following the date of such damage or destruction (without regard to any adjustments to Minimum Rent which may be scheduled to occur during such period). The present value of such Minimum Rent shall be computed by discounting the scheduled quarterly installments of Minimum Rent at the interest rate specified in Section 12.4(c)(v).

12.5 Rental Abatement.

During the first twenty (20) years of the Initial Term, Tenant shall continue to pay Minimum Rent (and as applicable, any Additional Rent) following the occurrence of any event causing damage or destruction, without abatement, unless this Lease is terminated pursuant to the provisions of this Section 12. If an event causing damage or destruction occurs at a time when less than five (5) years remain on the Initial Term of this Lease, or during any Extended Term, and Tenant has the right to choose to Demolish the Improvements, but elects not to Demolish the Improvements, and the extent of the damage or destruction is such that the Improvements cannot, with the exercise of reasonable diligence, be Restored within one (1) year following the occurrence of the casualty causing such damage or destruction, then Minimum Rent shall abate, to the extent the Premises (or portions of the Premises) are rendered untenantable for their intended uses, commencing on the date one (1) year following the occurrence of the casualty causing such damage or destruction, and continuing through the date such Restoration is completed (or if sooner, the date on which such Restoration should have been completed given the exercise of reasonable diligence on the part of Tenant, and subject to Force Majeure).

12.6 Arbitration of Disputes Relating to Estimated Costs of Restoration.

(a) Estimators. In the event Landlord and Tenant cannot mutually agree upon the cost of Restoration or the cost of replacing the Improvements under Sections 12.3(c)(ii) or 12.3(d), such disputed amount shall be determined in the manner provided in this Section 12.6. Either Party may invoke the provisions of this Section 12.6 at any time that a dispute as to any such amount exists, by delivering written notice to the other Party. Within twenty (20) business days after delivery of notice invoking the provisions of this Section, each Party shall designate, by written notice to the other Party, a licensed general contractor having at least ten (10) years experience in estimating construction costs of major construction projects in the City to estimate the cost or amount in dispute. Each such estimator shall be competent, licensed, qualified by training and experience in the City, disinterested and independent. Each estimator (or if either Party fails to appoint its estimator within such twenty (20) business day period, the estimator appointed by the other Party) shall make an independent determination of the disputed amount in accordance with the provisions hereof. The estimators may share and have access to objective information in preparing their estimates, but they will otherwise act

independently. Each estimator shall complete, sign and submit its written estimate of the disputed construction or replacement cost, as applicable, within fifteen (15) business days after the appointment of both estimators, unless the Parties agree to permit a longer period of time. If the higher estimate is not more than one hundred ten percent (110%) of the lower estimate, the disputed amount shall be determined for purposes of this Lease to equal the average of the two (2) estimates.

(b) Arbitration. If the higher estimate is more than one hundred ten percent (110%) of the lower estimate, the Parties shall agree upon and appoint an independent arbitrator within thirty (30) days after the first two (2) estimates have been submitted to the Parties. The arbitrator shall have the minimum qualifications required of an estimator pursuant to subsection (a) above, and shall also have experience acting as an arbitrator of disputes involving construction costs or construction disputes. If the Parties do not appoint such arbitrator within such thirty (30) day period, then either Party may apply to the Superior Court of the State of California in and for the County of San Francisco for appointment of an arbitrator meeting the foregoing qualifications. If the court denies or otherwise refuses to act upon such application, either party may apply to the American Arbitration Association, or any similar provider of professional commercial arbitration services, for appointment in accordance with the rules and procedures of such organization of an independent arbitrator meeting the foregoing qualifications. The arbitrator shall consider the estimates submitted by the Parties as well as any other relevant written evidence which the Parties may choose to submit. If a Party chooses to submit any such evidence, it shall deliver a complete and accurate copy to the other Party at the same time it submits the same to the arbitrator. Neither party shall conduct ex parte communications with the arbitrator regarding the subject matter of the arbitration. Within fifteen (15) business days after his or her appointment, the arbitrator shall conduct a hearing, at which Landlord and Tenant may each make supplemental oral and/or written presentations, with an opportunity for testimony by the estimators and questioning by the Parties and the arbitrator. Within ten (10) business days following the hearing, the arbitrator shall select the estimate submitted by one or the other of the first two (2) estimators, as the more accurate estimate of the disputed amount, in the opinion of the arbitrator. The determination of the arbitrator shall be limited solely to the issue of deciding which of the estimates is closest to the actual disputed value or amount. The arbitrator shall have no right to propose a middle ground or to modify either of the two estimates, or to modify any provision of this Lease.

(c) Conclusive Determination. Except as provided in California Code of Civil Procedure Section 1286.2 (as the same may be amended from time to time), the determination by the estimators or the arbitrator, as applicable, shall be conclusive, final and binding on the Parties. Neither the estimators nor the arbitrator shall have any power to modify any of the provisions of this Lease. Subject to the provisions of this Section, the Parties will cooperate to provide all appropriate information to the estimators and the arbitrator. The estimators and the arbitrator will each report their respective determinations in writing, supported by the reasons for the determination.

(d) Conduct of Arbitration Proceeding. Any arbitration proceeding under this Section 12.6 shall be subject to California Code of Civil Procedure Sections 1280 to 1294.2 (but excluding Section 1283.05 with respect to discovery), or successor California laws then in effect relating to arbitration generally. Any such proceeding shall be conducted in the City of San Francisco.

(e) Fees and Costs; Waiver. Each Party shall bear the fees, costs and expenses of the estimator it selects. The fees, costs and expenses of the arbitrator and the costs and expenses of the arbitration proceeding, if any, shall be shared equally by Landlord and Tenant. The Parties waive any claims against the estimator appointed by the other Party, and against the arbitrator, for negligence, malpractice, or similar claims in the performance of the estimates or arbitration contemplated by this Section.

(f) ARBITRATION OF DISPUTES. With respect to the arbitration provided for in this Section 12.6, the Parties agree as follows:

NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISIONS IN THIS LEASE DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.

_____ _____

Landlord's Initials Tenants' Initials

Any judgment upon the award rendered by the arbitration may be entered in any court having jurisdiction of such arbitration in accordance with the terms of this Lease. This arbitration provision does not affect the rights of either Party to seek confirmation, correction or vacation of the arbitration award pursuant to California Code of Civil Procedure Section 1285 et seq.

SECTION 13. CONDEMNATION

13.1 General; Notice; Waiver.

(a) General. If, at any time during the Term, there is any Condemnation of all or any part of the Premises, including any of the Improvements, the rights and obligations of the Parties shall be determined pursuant to this Section 13. The provisions of this Section 13 governing the allocation of Awards shall not, however, apply to a Condemnation by Redevelopment Agency, City or any joint powers authority or similar public entity Specially Controlled by any of the foregoing Persons. In any such case, all Awards shall be allocated in accordance with the Eminent Domain Law of the State of California, California Code of Civil Procedure Section 1230.010 et seq., as it may be amended, replaced or restated.

(b) Notice. In case of the commencement of any proceedings or negotiations which might result in a Condemnation of all or any portion of the Premises during the Term, the Party learning of such proceedings shall promptly give written notice of such proceedings or negotiations to the other Party. Such notice shall describe with as much specificity as is reasonable, the nature and extent of such Condemnation or the nature of such proceedings or negotiations and of the Condemnation which might result therefrom, as the case may be.

(c) Waiver. Except as otherwise provided in this Section 13, the Parties intend that the provisions of this Lease shall govern their respective rights and obligations in the event of a Condemnation. Accordingly, but without limiting any right to terminate this Lease given Tenant in this Section 13, Tenant waives any right to terminate this Lease upon the occurrence of a Partial Condemnation under Sections 1265.120 and 1265.130 of the California Code of Civil Procedure, as such section may from time to time be amended, replaced or restated.

13.2 Total Condemnation.

If there is a Condemnation of the entire Premises or Tenant's leasehold interest therein (a "Total Condemnation"), this Lease shall terminate as of the Condemnation Date.

13.3 Substantial Condemnation, Partial Condemnation.

If there is a Condemnation of any portion but less than all of the Premises, the rights and obligations of the Parties shall be as follows:

(a) Substantial Condemnation. If there is a Substantial Condemnation of a portion of the Premises or Tenant's Leasehold Estate, this Lease shall terminate, at Tenant's option, as of the Condemnation Date, as further provided below. For purposes of this Section 13, a Condemnation of less than the entire Premises or of less than Tenant's Leasehold Estate shall

be a Substantial Condemnation, and this Lease shall terminate, at Tenant's option (which shall be exercised, if at all, at any time within ninety (90) days after the Condemnation Date by delivering written notice of termination to Landlord) in any of the following cases: (i) the Baseball Sublease is terminated as a result of such Condemnation, either by operation of law or pursuant to the exercise by the Subtenant thereunder of a right to terminate, or (ii) Tenant receives written notice from the Office of the Commissioner of Major League Baseball or other Major League Baseball authorities that as a result of the Condemnation, the Premises are no longer suitable for the exhibition of Major League Baseball games, or (iii) Tenant reasonably determines that such Condemnation renders the Ballpark untenantable, unsuitable or economically infeasible for Ballpark use; provided, however, a Condemnation described in clauses (ii) or (iii) above shall not be substantial, and Tenant shall have no right to terminate this Lease under this Section, if the condition rendering the Ballpark unsuitable, untenantable, or economically unfeasible for Ballpark use, as the case may be, can be cured (in a manner which is reasonably satisfactory to Tenant and which complies with all applicable Baseball Rules and Regulations) by the performance of Restoration, and (1) the cost of such Restoration does not exceed by at least Two Million Five Hundred Thousand Dollars ($2,500,000) the portion of the Award fairly allocable to severance damages suffered by Tenant, or (2) Landlord (in its sole and absolute discretion and without any obligation to do so) gives written notice to Tenant within thirty (30) days (subject to extension as provided below) after receipt of Tenant's termination notice that Landlord agrees, at its cost and expense, to pay any amount by which the cost of such Restoration exceeds by at least Two Million Five Hundred Thousand Dollars ($2,500,000) the amount of the Tenant's severance damages. In either such case, this Lease shall not terminate, and Tenant shall perform such Restoration, subject to the provisions of Sections 10 and 13.4), within a reasonable time, subject to events of Force Majeure. In any such case, however, Minimum Rent shall be adjusted in accordance with the provisions of Section 13.3(b), and in addition, Minimum Rent shall be abated during the period necessary for the performance of such Restoration in an equitable amount to reflect the diminution in Fair Market Rent for the Premises during the period of such Restoration, as determined by the Parties, or in the absence of an agreement between the Parties, by arbitration under Section 13.3(b). In addition, Landlord may extend the 30-day period for Landlord to deliver notice under clause (2) above, for up to ninety (90) additional days, by giving notice of such extension to Tenant within the original 30-day period following receipt of Tenant's termination notice, provided if Landlord extends such period, no Minimum Rent shall be payable under this Lease during the term of any such extension. Landlord's right to exercise the option described in clause (2) above shall be conditioned upon Landlord and Tenant reaching an agreement which is also satisfactory to any Mortgagees, with respect to the schedule for performance of required work, the timing of payments of Landlord's contribution to the costs of such work (to the extent not available from Landlord's share of the Award), and any other related issues which may be necessary or appropriate for resolution in connection with such work and the payment for such work. If no satisfactory agreement is reached within such period, Landlord shall have no right to exercise such right, and such Condemnation shall be deemed a Substantial Condemnation.

(b) Partial Condemnation. If there is a Condemnation of any portion of the Premises or Tenant's Leasehold Estate which does not result in a termination of this Lease under Section 13.2 or Section 13.3(a) (a "Partial Condemnation"), this Lease shall terminate only as to the portion of the Premises taken in such Partial Condemnation, effective as of the Condemnation Date. In the case of a Partial Condemnation, or in the case of a Substantial Condemnation which does not result in a termination of this Lease, the Minimum Rent for the remainder of the Premises shall be adjusted to reflect the diminution in value of the remaining portion of the Premises as of the Condemnation Date. Such Minimum Rent adjustment shall be separately computed with respect to (i) the temporary period during which any necessary Restoration will be performed; and (ii) the period following completion of any necessary Restoration. The Parties shall first negotiate in good faith in an attempt to determine by agreement the appropriate adjustment. If the Parties do not reach agreement within thirty (30) days following the Condemnation Date, the adjustment(s) shall be determined by the same court of law that establishes the Award. In the case of a Partial Condemnation, this Lease shall remain in full force and effect as to the portion of the Premises (or of Tenant's Leasehold Estate) remaining immediately after such Condemnation, and Tenant shall promptly commence and complete, subject to events of Force Majeure, any necessary Restoration of the remaining portion of the Premises, at no cost to Landlord. Any such Restoration shall be performed in accordance with the provisions of Section 10.

13.4 Awards.

Except as provided in Section 13.1(a) and in Sections 13.5 and 13.6, Awards and other payments to either Landlord or Tenant on account of a Condemnation, less costs, fees and expenses (including, without limitation, reasonable Attorneys' Fees and Costs) incurred in the collection thereof ("Net Awards and Payments") shall be allocated between Landlord and Tenant as follows:

(a) first, to pay costs of Restoration incurred by Tenant;

(b) second, Landlord and Tenant shall each be allocated the value of their respective interests in the Premises (to the extent Condemned), together with interest thereon from the Condemnation Date to the date of payment at the rate paid on the Award, and Attorneys' Fees and Costs, to the extent awarded. Landlord's severance damages, if any, shall reflect the adjustment of Minimum Rent as set forth in Section 13.3(b). The values of Landlord's and Tenant's respective interests in the Premises shall be established by the same court of law or that establishes the amount of the Award. If less than all of the Premises is Condemned, and this Lease is terminated, the fair market value of the remaining Premises and Improvements thereon which become the property of Landlord upon such termination shall be treated as a share in the award received by Landlord for the purposes of this section;

(c) third, to Landlord from the share otherwise allocated to Tenant, in an amount equal to any accrued and unpaid Rent owed by Tenant to Landlord under this Lease for periods prior to the Condemnation Date;

(d) fourth, to Tenant from the share otherwise allocated to Landlord, in an amount equal to any unapplied Rent Credits under Section 2.6; and

(e) fifth, to Tenant from the share otherwise allocated to Landlord, in an amount equal to any sum which Landlord has agreed to pay towards the cost of Restoration under clause (2) of Section 13.3(a).

13.5 Temporary Condemnation.

If there is a Condemnation of all or any portion of the Premises for a temporary period lasting less than the remaining Term of this Lease, other than (i) in connection with a Substantial Condemnation or a Partial Condemnation of a portion of the Premises for the remainder of the Term, or (ii) a Condemnation which results in a termination of the Baseball Sublease, either by operation of law of by exercise by the Subtenant under the Baseball Sublease of a right to terminate (a "Temporary Condemnation"), this Lease shall remain in full force and effect, there shall be no abatement of Rent, and the entire Award shall be payable to Tenant.

13.6 Relocation Benefits, Personal Property.

Notwithstanding Section 13.4, Landlord shall not be entitled to any portion of any Net Awards and Payments payable in connection with the Condemnation of the personal property of Tenant or any of its Subtenants. In addition, Landlord shall not be entitled to any portion of any Net Awards and Payments payable as relocation assistance benefits under any applicable law.

SECTION 14. LIENS

14.1 Liens.

Tenant shall not create or permit the attachment of, and shall promptly following notice, discharge at no cost to Landlord, any lien, security interest, or encumbrance on the Premises or Tenant's Leasehold Estate, other than (i) this Lease, permitted Subleases and Permitted Title Exceptions, (ii) liens for non-delinquent Impositions (excluding Impositions which may be separately assessed against the interests of Subtenants), except only for Impositions being contested as permitted by Section 5, (iii) Mortgages permitted under Section 42, (iv) Mortgages encumbering the subleasehold interests of Subtenants, provided no such Mortgage encumbers Tenant's Leasehold Estate unless such Mortgage is permitted under Section 42, and (v) liens of mechanics, material suppliers or vendors, or rights thereto, for sums which under the terms of the related contracts are not at the time due or which are being

contested as permitted by Section 5. The provisions of this Section do not apply to liens created by Tenant on its Personal Property.

14.2 Mechanics' Liens.

Nothing in this Lease shall be deemed or construed in any way as constituting the request of Landlord, express or implied, for the performance of any labor or the furnishing of any materials for any specific improvement, alteration or repair of or to the Premises or the Improvements, or any part thereof. Tenant agrees that at all times when the same may be necessary or desirable, Tenant shall take such action as may be required by Landlord or under any Law in existence or hereafter enacted which will prevent the enforcement of any mechanics' or similar liens against Landlord's fee interest in the Premises for or on account of labor, services or materials furnished to Tenant, or furnished at Tenant's request. Tenant shall provide such advance written notice of any Subsequent Construction such as shall allow Landlord from time to time to post a notice of non-responsibility on the Premises.

SECTION 15. SECURITY DEPOSIT

15.1 Tenant's Obligation to Make Security Deposit.

On or before the first July 1 following the date upon which the Team plays its first Baseball Home Game in the Project, Tenant shall pay to Landlord, in addition to Rent, a Security Deposit (the "Security Deposit") in an initial amount equal to One Hundred Thousand Dollars ($100,000). On or before the next succeeding July 1, Tenant shall pay to Landlord an additional One Hundred Thousand Dollars ($100,000) to increase the amount of the Security Deposit to Two Hundred Thousand Dollars ($200,000). The Security Deposit shall be made in all cash, except as otherwise provided in Section 15.2. Tenant agrees that upon the occurrence of an Event of Default Landlord may, but shall not be required to, apply the Security Deposit in whole or in part to (a) remedy any failure by Tenant to pay Rent, including any and all Additional Rent, payable by Tenant hereunder, as and when due, (b) cure any default by Tenant in the performance of its repair and maintenance obligations or the faithful performance of any other terms, covenants and conditions of this Lease, or (c) repair any damage to the Premises caused by Tenant, its Subtenants, Agents or Invitees. Should Landlord use any portion of the Security Deposit to cure any default by Tenant hereunder, Tenant shall replenish the Security Deposit to the original amount within ten (10) business days following Landlord's demand. Landlord's obligations with respect to the Security Deposit are solely that of debtor and not trustee. Landlord shall not be required to keep the Security Deposit separate from its general funds. Tenant shall not be entitled to any interest on the Security Deposit. The amount of the Security Deposit shall not be deemed to limit Tenant's liability for the performance of any of its obligations under this Lease. Landlord may apply the Security Deposit as provided herein without waiving any of Landlord's other rights and remedies hereunder or at law or in equity. Upon the expiration or earlier termination of this Lease, Landlord shall return the unused balance of the Security Deposit to Tenant (less any amounts then due and payable from Tenant to

Landlord under this Lease) within fourteen (14) days after Tenant surrenders possession of the Premises to Landlord. In addition, Landlord shall return the Security Deposit then held by Landlord if at the time Tenant delivers a letter of credit or other alternative security under Section 14.2

15.2 Alternative Forms of Security.

In lieu of cash security as provided above, Tenant may deliver to Landlord a "clean" (i.e. unconditional), irrevocable standby letter of credit in a form reasonably approved by the City Attorney and the Port's Executive Director. The letter of credit shall be issued by a bank with a Moody's rating of A or better (or comparable successor rating). The issuing bank must have a branch office in San Francisco at which demands on the letter of credit may be presented. The original term of the letter of credit shall be no less than one year. Tenant shall keep such letter of credit, at its expense, in full force and effect until the sixtieth (60th) day after the expiration of the Term or other termination of this Lease, to ensure, the faithful performance by Tenant of all of the covenants, terms and conditions of this Lease. Such letter of credit shall provide thirty (30) days' prior written notice to Landlord of cancellation or material change thereof. In the event of any nonextension of the letter of credit, Tenant shall replace such security with a cash Security Deposit or another letter of credit permitted under this Section at least ten (10) days before expiration of such letter of credit. If Tenant fails to do so Landlord shall be entitled to present its written demand for payment of the entire face amount of such letter of credit and to hold the funds so obtained as the Security Deposit required under this Section. Any unused portion of the funds so obtained by Landlord shall be returned to Tenant upon replacement of the letter of credit or deposit of cash security in the full amount required under this Section.

SECTION 16. ASSIGNMENT AND SUBLETTING

16.1 General.

(a) Consent of Landlord. Except as otherwise permitted in this Section 16, Tenant shall not, without the prior written consent of Landlord, which consent will not be unreasonably withheld, conditioned or delayed, assign or otherwise transfer this Lease, the Leasehold Estate or any interest in the Leasehold Estate ("Transfer") to any Person. If Tenant is a corporation, partnership, limited liability company, or other entity, any dissolution, merger, consolidation or other reorganization, or any issuance or transfer of beneficial interests in Tenant, directly or indirectly, in one or more transactions, that results in a change in the identity of the Persons Controlling Tenant (any of the foregoing, a "Significant Change"), shall constitute a Transfer. The requirements for Landlord's consent under this Section shall not apply to transfers of interests through any "over-the-counter market" or through any recognized stock exchange, other than by any person deemed to be a "control person" within the meaning of the Securities Exchange Act of 1934, as amended.

(b) Mortgaging of Leasehold. Notwithstanding anything herein to the contrary, at any time during the Term of this Lease, Tenant shall have the right, without Landlord's consent, to mortgage, pledge, encumber, hypothecate or otherwise create security interests in Tenant's Leasehold Estate in accordance with the provisions of Section 42, and to Transfer the Leasehold Estate or any interest therein to (i) a Mortgagee or other purchaser at a foreclosure sale under the provisions of a Mortgage or (ii) a Mortgagee, its designee or nominee by conveyance in lieu of (or under threat of) foreclosure, or pursuant to a bankruptcy court order, provided that such Mortgagee, designee or nominee has assumed in writing all of Tenant's obligations under this Lease arising after its acquisition of such Leasehold Estate. None of the provisions of this Section 16 shall modify or limit the rights of any Mortgagee under Section 42.

(c) Subletting. Notwithstanding anything herein to the contrary, including, without limitation Section 16.1(a), Tenant may enter into Subleases in accordance with the provisions of Section 16.3, and may transfer Seat Rights in accordance with the provisions of Section 16.2.

(d) Transfer to Qualified Developer, Permitted Transferee. Notwithstanding anything herein to the contrary, (1) before Completion of the Initial Improvements, either Tenant or any Mortgagee which has succeeded to Tenant's Leasehold Estate in accordance with the provisions of this Lease shall have the right to Transfer the Leasehold Estate to a Qualified Developer who assumes in writing all of the obligations of Tenant under this Lease and the DDA in connection with construction of the Initial Improvements, (2) at any time following Completion of the Initial Improvements, Tenant shall have the right from time to time to freely Transfer its interest in this Lease, without Landlord's consent except under circumstances where Landlord's consent is required under Section 16.1(f).

(e) Release. Subject to the terms and conditions of subsections (g), (i) and (j). Tenant will be entitled to a release from liability solely for obligations arising under this Lease on or after the date of a Transfer if, and only if, (i) in the case of a Transfer prior to Completion of the Initial Improvements, such Transfer is to a Qualified Developer that assumes in writing all of the obligations of Tenant under this Lease and the DDA, or, (ii) in the case of a Transfer upon or following Completion of the Initial Improvements, such Transfer is (A) to a Permitted Transferee, or (B) to a Person other than a Permitted Transferee who has entered into (or agrees to enter into) a written contract, which contract shall be satisfactory to Landlord in its reasonable discretion, for the operation, leasing and management of the Project by a Qualified Manager.

(f) Certain Transfers and Significant Changes. Subject to the rights of Mortgagees as specified in this Lease, Tenant shall not, without the prior written consent of Landlord, which consent will not be unreasonably withheld, conditioned or delayed, Transfer this Lease or any interest in this Lease or permit a Significant Change to occur prior to (or in connection with) the expiration of the Non-Relocation Agreement (or for so long thereafter as Major League Baseball continues to be played at the Ballpark), if, as a result of such Transfer or

Significant Change, Tenant will no longer be an Affiliate of the Team Owner, unless (i) in the case of a Transfer which is not a Significant Change, the transferee is a Permitted Transferee, or has entered into (or has agreed to enter into) a written contract satisfactory to Landlord in its reasonable discretion, for the operation, leasing and management of the Project by a Qualified Manager, or (ii) in the case of a Significant Change, Tenant satisfies the Transferee Criteria or has entered into (or has agreed to enter into) a written contract satisfactory to Landlord in its reasonable discretion, for the operation, leasing and management of the Project by a Qualified Manager. Landlord acknowledges that in the case of a Transfer described in clause (i) of this Section 16.1(f) and approved by Landlord, Tenant will also be entitled to a release under the provisions of Section 16.1(e).

(g) Delivery of Executed Assignment. No Transfer of any interest in this Lease (or release under subsection (e)) will be effective unless and until there has been delivered to Landlord an executed counterpart of an instrument, in recordable form, executed by the transferor and by the transferee, wherein and whereby such transferee assumes responsibility for performance of all of the obligations of Tenant under this Lease arising on or after the date of the Transfer (provided, however, that the failure of any transferee to assume this Lease , or to assume one or more of Tenant's obligations under this Lease, will not relieve such transferee from such obligations or limit Landlord's rights or remedies under this Lease or under applicable Law). The form of such instrument of assignment and assumption shall be subject to Landlord's approval, which approval will not be unreasonably withheld or delayed, and shall be limited to the question of whether such instrument, when duly executed, will be legally adequate to accomplish its intended purpose under this Lease.

(h) Notice of Transfers and Significant Changes. Tenant shall give Landlord written notice of any Transfer (other than transactions described in Sections 16.2 and 16.3) or Significant Change within a reasonable time following the effective date thereof, whether or not Landlord's approval of such Transfer or Significant Change is required under this Lease.

(i) Determination of Whether Consent is Required. At any time, or from time to time, Tenant may submit a request to Landlord for the approval of the terms of a Transfer or Significant Change, if under the terms hereof Landlord's consent is required, or if Tenant is requesting a release of future liability hereunder and Landlord's consent is required as a condition of such release, or for a decision by Landlord as to whether in its opinion a proposed Transfer requires Landlord consent under the provisions of this Section 16. Within thirty (30) days following such request and the furnishing by Tenant to Landlord of all documents and instruments with respect thereto as may be reasonably requested by Landlord, Landlord shall notify Tenant in writing of Landlord's approval or disapproval, or of Landlord's determination that the proposed transfer does not require Landlord's consent. If Landlord disapproves the proposed transfer, or determines that the proposed transfer requires the consent of Landlord, as applicable, it shall specify the grounds for its disapproval, or its reasons for determining that consent is required, or both, as applicable.

(j) Reasonable Grounds for Withholding Consent. Where a Transfer or Significant Change (or a requested release of Tenant from future liability under this Lease in connection with a Transfer) requires Landlord's reasonable consent, it shall be reasonable (1) for Landlord to withhold its consent if Tenant has not supplied sufficient information (including supplemental materials reasonably requested by Landlord) to enable Landlord to make a reasonable determination whether any applicable requirements under Section 16.1(d) have been satisfied, and (2) if Tenant is then in default of any of its obligations under this Lease, for Landlord to condition its consent on the cure of such defaults as Landlord may specify in its notice conditionally approving such Transfer, provided that if there is an Event of Default under this Lease on the part of Tenant, Landlord may withhold or condition its consent to such Transfer or Significant Change. The provisions of Section 39.2(c) shall apply hereto, and if Landlord's response is not given within the time specified, Landlord's consent shall be deemed given (or Landlord shall be deemed to have determined that its consent is not required, as the case may be). Where Landlord's consent to a Transfer or Significant Change is required by the terms of this Lease, Tenant agrees to pay the reasonable Attorneys' Fees and Costs incurred by Landlord in connection with its review of such Transfer or Significant Change.

16.2 Seat Rights.

Notwithstanding anything to the contrary in this Lease, Tenant shall have the right, without the prior consent of Landlord, to sell or grant rights to purchase future tickets for reserved seats, club seats and luxury suites, including so-called charter seat rights ("Seat Rights"), or permit the Subtenant under the Baseball Sublease to do so, subject to and subordinate to the provisions of this Lease. Such Seat Rights shall not survive the termination of this Lease, except that if this Lease terminates prior to its scheduled expiration date (including extensions), and the Team continues thereafter to play its Baseball Home Games in the Ballpark (whether under the Baseball Sublease or otherwise), Landlord will not disturb the rights of holders of Seat Rights for so long as (a) the Team continues to play its Baseball Homes Games in the Ballpark, and (b) as to any particular holder of Seat Rights, such holder continues to perform under its agreements in respect of such Seat Rights.

16.3 Subleases.

(a) Subleases. Subject to the terms and conditions of this Lease, Tenant shall have the right, without Landlord's prior approval, to enter into Subleases from time to time for all or any portion of the Improvements. All Subleases shall be subject and subordinate to this Lease and to any New Lease. Landlord shall include covenants in each Sublease requiring the Subtenant thereunder to comply with all applicable Laws, including, but not limited to, Hazardous Materials Laws and Disabled Access Laws. Subtenants need not be obligated to Restore their respective Subtenant Spaces, if any, following the occurrence of an event causing damage or destruction thereto, so long as Tenant, in its capacity as landlord under each such Sublease, has the right, subject only to reasonable limitations, to terminate the

Sublease if the Subtenant does not so Restore. In no event may the term of any such Sublease (including extension options) extend beyond the scheduled Term of this Lease without the written consent of Landlord (such consent not to be unreasonably withheld, conditioned, or delayed). Landlord agrees to enter into Non-Disturbance Agreements with Subtenants on the conditions set forth in Section 16.4.

(b) Baseball Sublease. Tenant and the Team Owner have entered into the Baseball Sublease as of the date of this Lease, and the form and business terms of such Baseball Sublease have been approved by Landlord. During the term of the Non-Relocation Agreement, Tenant shall not terminate the Baseball Sublease except in accordance with its terms, nor amend the provisions of the Baseball Sublease to materially diminish the obligations of the Subtenant, or to materially increase the obligations of Tenant (as sublandlord thereunder) without Landlord's prior written approval, which approval shall not be unreasonably withheld, conditioned or delayed, provided that Landlord may, in its sole and absolute discretion, approve or disapprove of any reduction in the length of the minimum term of the Baseball Sublease to a term shorter than that of the Non-Relocation Agreement, or any proposed termination or cancellation of the Baseball Sublease (or any amendment which would create a right on the part of the Team Owner to terminate the Baseball Sublease) during the term of the Non-Relocation Agreement. The Baseball Sublease shall be subject and subordinate to this Lease. The minimum term of the Baseball Sublease shall be at least as long as the Non-Relocation Term under the Non-Relocation Agreement.

16.4 Non-Disturbance of Subtenants, Attornment, Sublease Provisions.

(a) Conditions for Non-Disturbance Agreements. From time to time upon the request of Tenant, Landlord shall enter into agreements with Subtenants providing generally, with regard to a given Sublease, that in the event of any termination of this Lease, Landlord will not terminate or otherwise disturb the rights of the Subtenant under such Sublease, but will instead honor such Sublease as if such agreement had been entered into directly between Landlord and such Subtenant ("Non-Disturbance Agreements"). Except as otherwise provided in Section 16.4(c), all Non-Disturbance Agreements shall comply with the provisions of this Section 16.4(a) and of Section 16.4(b). Landlord shall provide a Non-Disturbance Agreement to a Subtenant if all of the following conditions are satisfied: (i) the performance by Tenant of its obligations under such Sublease will not cause an Event of Default to occur under this Lease; (ii) the term of the Sublease, including options, does not extend beyond the scheduled Term (including Extended Terms), unless Landlord approves such longer term; (iii) the Sublease contains provisions whereby the Subtenant agrees to comply with applicable provisions of Section 45.1(a), (b) and (e) and Section 45.5; (iv) the Subtenant agrees that in the event this Lease expires, terminates or is canceled during the term of the Sublease, the Subtenant shall attorn to Landlord (provided Landlord agrees not to disturb the occupancy or other rights of the Subtenant and to be bound by the terms of the Sublease), and the Sublease shall be deemed a direct lease or license agreement between the Subtenant and Landlord, except that Landlord shall not be liable to the Subtenant for any security deposit or prepaid rent or license fees previously

paid by such Subtenant to Tenant, except for rent or license fees for the current month, if previously paid; (v) the form and material business terms of the Sublease are reasonably approved by Landlord, in light of market conditions existing at the time such Sublease is entered into, recognizing that a substantial portion of the consideration payable under such Sublease may be prepaid by the Subtenant for use in connection with the development of the Project, the construction of the Initial Improvements, or Subsequent Construction, including costs of Restoration or other capital improvements to the Property, (vi) if Tenant is then in default of any of its obligations under this Lease, Landlord may condition its agreement to provide a Non-Disturbance Agreement on the cure of such defaults as Landlord may specify either in a notice of default given under Section 22.1 or in a notice conditionally approving Tenant's request for such Non-Disturbance Agreement (and if an Event of Default on the part of Tenant then exists, then Landlord may withhold or condition the giving of a Non-Disturbance Agreement), and (vii) the Subtenant shall have delivered to Landlord an executed estoppel certificate, in form and substance reasonably satisfactory to Landlord, certifying: (A) that the Sublease, including all amendments, is attached thereto and is unmodified, except for such attached amendments, and is in full force and effect, as so amended, or if such Sublease is not in full force and effect, so stating, (B) the dates, if any, to which any rent and other sums payable thereunder have been paid, (C) that the Subtenant is not aware of any defaults which have not been cured, except as to defaults specified in said certificate, and (D) such other matters as Landlord may reasonably request. Landlord shall not be required to enter into a Non-Disturbance Agreement with respect to any period beyond the scheduled expiration of the Term (including Extended Terms) hereof. Landlord shall respond to any request for a Non-Disturbance Agreement within twenty (20) days after receipt of a true and complete copy of the relevant Sublease in the form to be executed, and all relevant information requested by Landlord. Such relevant information shall include reasonable financial information establishing the ability of the proposed Subtenant to perform its contemplated obligations under such Sublease, and relevant information concerning the business character and reputation of the proposed Subtenant. Landlord agrees to cooperate, to the extent it is legally permitted to do so, in protecting the confidentiality of personal or financial information relating to any Subtenant. Nothing in this Section 16.4 shall preclude Landlord in its sole and absolute discretion from granting non-disturbance to other Subtenants.

(b) Form of Non-Disturbance Agreement. Except as otherwise provided in Section 16.4(c), each Non-Disturbance Agreement shall be substantially in the form of Exhibit L and, if not in such form, shall be in form and substance reasonably satisfactory to Landlord. With each request for a Non-Disturbance Agreement, Tenant shall submit a copy of the form, showing any requested interlineations or deletions, and Landlord shall approve or disapprove of the requested changes within twenty (20) days after receipt of such changes (such approval not to be unreasonably withheld or conditioned). Any disapproval by Landlord shall be in writing, and shall set forth the specific reasons for Landlord's disapproval. Failure by Landlord to approve or disapprove of specific interlineations, deletions or other modifications requested by a Subtenant within such twenty (20) day period shall be deemed to be approval of the requested changes (subject to Section 39.2).

(c) Baseball Sublease. Landlord, Tenant and Team Owner have entered into a Non-Disturbance Agreement in connection with the Baseball Sublease as of the date hereof. If, during the term of the Non-Relocation Agreement, the Subtenant under the Baseball Sublease assigns or otherwise Transfers its interest in the Baseball Sublease, then (provided the transferee agrees, by a written agreement delivered to City in accordance with the terms of the Non-Relocation Agreement, to be bound by the Non-Relocation Agreement) Landlord agrees to enter into a Non-Disturbance Agreement with Tenant and the transferee on substantially the same terms and conditions as are contained in the Non-Disturbance Agreement referred to in the first sentence of this paragraph, subject to Landlord's approval of the form and business terms, to the extent contemplated by Section 16.3(b), of the Baseball Sublease, and the satisfaction of the other conditions set forth in Section 16.4(a). Following the expiration of the term of the Non-Relocation Agreement, Landlord agrees to enter into a replacement Non-Disturbance Agreement with the Team Owner (or its successor as Subtenant under the Baseball Sublease), substantially in the form of Exhibit L provided the conditions set forth in Section 16.4(a) are satisfied.

(d) Naming Rights Agreements. From time to time upon the request of Tenant, Landlord shall enter into Non-Disturbance Agreements as otherwise provided in this Section 16.4, with Persons who have entered into Naming Rights Agreements with Tenant. Solely for purposes of this Section 16.4(d), a Naming Rights Agreement shall be deemed to be a Sublease, and any Person granted a right under a Naming Rights Agreement to name the Premises or the Improvements (or any portion thereof) shall be deemed to be a Subtenant, without regard to whether such Naming Rights Agreement includes a grant of a possessory right or interest in any portion of the Premises.

16.5. Assignment of Sublease Rents.

Tenant hereby assigns to Landlord, as collateral security for the payment of all Rent and the performance of all obligations of Tenant under this Lease, all rents and other payments of any kind, including, without limitation, any and all common area maintenance charges, due or to become due from any or present of future Subtenant; provided, however, the foregoing assignment shall be subject and subordinate to any assignment made to a Mortgagee under Section 42 until such time as Landlord has terminated this Lease (but subject to the rights of a Mortgagee to a new lease under Section 42.12). Such subordination shall be self-operative. However, in confirmation thereof, Landlord shall, upon the request of each Mortgagee, execute a subordination agreement in form and substance reasonably satisfactory to such Mortgagee and to Landlord. Notwithstanding the foregoing, if this Lease terminates by reason of an Event of Default on the part of Tenant, any Mortgagee which actually collected any rents from any Subtenants pursuant to any assignment of rents or subleases made in its favor shall promptly remit to Landlord the rents so collected (less the actual cost of collection) to the extent necessary to pay Landlord any Rent, including any and all Additional Rent, through the date of termination of this Lease. The assignment of rents to Landlord under this Section shall be subject to the ongoing right of Tenant to collect all such rents until the date of the occurrence of any Event of

Default on the part of Tenant under the provisions of this Lease. Landlord shall apply any net amount collected by it from such Subtenants to the payment of Rent due under this Lease.

SECTION 17. INDEMNIFICATION OF LANDLORD

17.1 Indemnification of Landlord.

Tenant shall Indemnify Landlord and the other Indemnified Parties from and against any and all Losses incurred by or asserted against any such Indemnified Party, the Premises or Landlord's interest therein, in connection with the occurrence or existence of any of the following: (i) any injury to or death of any Person (including workers), or loss or damage to property, occurring on the Premises or any part of the Premises, during the Term of this Lease; (ii) any use, possession, occupation, operation, maintenance, repair or management of the Premises (and adjoining sidewalks) or the Access Parcels, or any portion thereof, by Tenant, its Agents, Subtenants and Invitees; (iii) any failure on the part of Tenant to perform or comply with any of the terms of this Lease (including Mitigation Measures and Improvement Measures), or of Tenant or any of its Agent or Subtenants to comply with applicable Laws (including, but not limited to, Disabled Access Laws and Hazardous Materials Laws), or any failure on the part of Tenant to perform or comply with any terms of the DDA, including the Project Requirements, with respect to construction of the Initial Improvements; (iv) performance of any labor or services or the furnishing of any materials or other property in respect of Improvements or any part of the Premises by Tenant, its Agents or its Subtenants, (including, but not limited to, any such activities under the DDA or this Lease); (v) any construction work or activities performed on or about the Premises under this Lease or the DDA, including, but not limited to, any accident, injury to or death of persons (including workers) or loss of or damage to property whether on or off the Property; and (vi) any negligence or willful misconduct or alleged negligence or willful misconduct on the part of Tenant, or any of its Agents or Subtenants, during the Term of this Lease (or until the last day of possession by Tenant, if later). Notwithstanding the foregoing, however, Tenant shall not be required to Indemnify Landlord or any other Indemnified Parties against Losses to the extent, and only to the extent, proximately caused by (i) any negligence or other actionable misconduct of Landlord or any Other Indemnified Party, acting (or failing to act) in its governmental capacity, in the exercise of its police powers (as opposed to its proprietary capacity as an owner of land), and specifically excluding any activities or omissions arising out of Landlord's review or issuance of building permits for construction of the Initial Improvements under the DDA or any Subsequent Construction under this Lease, or by (ii) the gross negligence or willful misconduct of Landlord or any Other Indemnified Party regardless of the capacity in which it acted or failed to act. If any action, suit or proceeding is brought against any Indemnified Party by reason of any occurrence for which Tenant is obliged to Indemnify such Indemnified Party, such Indemnified Party will promptly notify Tenant of such action, suit or proceeding. Tenant shall have the right to defend, and upon the request of an Indemnified Party, Tenant shall defend, at no cost to such Indemnified Party, such action, suit or proceeding, by counsel designated by Tenant and reasonably approved by such Indemnified Party in writing.

17.2 Agreement to Defend.

Tenant agrees to defend Landlord and the other Indemnified Parties against any claims which are actually or potentially within the scope of the indemnity provisions of this Lease, even if such claims may be groundless, fraudulent or false. Landlord or the Indemnified Party against whom any claim is made which may be within the scope of the indemnity provisions of this Lease shall provide notice to Tenant of such claim within a reasonable time after learning of such claim, and thereafter shall cooperate with Tenant in its defense of such claim, provided that any failure to provide such notice shall not affect Tenant's obligations under any such indemnity provisions, except to the extent Tenant is prejudiced by such failure.

17.3 Not Limited by Insurance.

The insurance requirements and other provisions of this Lease shall not limit Tenant's indemnification obligations under this Lease.

17.4 Survival.

Tenant's obligations to Indemnify shall survive the expiration or earlier termination of this Lease.

17.5 Other Obligations.

The agreements to Indemnify set forth in this Section 17 and elsewhere in this Lease are in addition to, and in no way shall be construed to limit or replace, any other obligations or liabilities which Tenant may have to Landlord under this Lease or applicable law.

17.6 Defense.

Tenant shall, at its option but subject to the reasonable consent and approval of Landlord, be entitled to control the defense, compromise, or settlement of any indemnified matter through counsel of Tenant's own choice; provided, however, in all cases Landlord shall be entitled to participate in such defense, compromise, or settlement at its own expense. If Tenant shall fail, however, within a reasonable time following notice from Landlord alleging such failure, to take reasonable and appropriate action to defend such suit or claim, Landlord shall have the right promptly to use the City Attorney or hire outside counsel to carry out such defense, which expense shall be due and payable to Landlord ten (10) business days after receipt by Tenant of an invoice therefor.

SECTION 18. INSURANCE

18.1 Property and Liability Coverage.

(a) Required Types and Amounts of Insurance. Tenant shall, at no cost to Landlord, obtain, maintain and cause to be in effect at all times from the Commencement Date to the later of (i) the last day of the Term, or (ii) the last day Tenant (A) is in possession of the Premises or (B) has the right of possession of the Premises (except as otherwise specified in this Section 18.1(a)), the following types and amounts of insurance:

(1) Builders Risk Insurance. At all times prior to Completion of the Initial Improvements, and during any period of Subsequent Construction, Tenant shall maintain, on a form reasonably approved by Landlord, builders' risk insurance in the amount of 100% of the completed value of all new construction, insuring all new construction, including all materials and equipment incorporated in, on or about the Premises, against hazards including earthquake (subject to the provisions of Section 18.1(b)(3)(A)), water damage (including, if appropriate and if available at commercially reasonable rates, groundwater damage and water damage resulting from backed up sewers and drains) and flood insurance (subject to the provisions of Section 18.1(b)(4)(A)), for the mutual benefit of Landlord, Tenant and Tenant's contractors and subcontractors; provided, however, that as to both earthquake insurance and flood insurance separate sublimits of the insurance required under this Section 18.1(a)(1) and the insurance required under Section 18.1(a)(7) may be required in order to comply with the requirements of Section 18.1(b)(3)(A) and Section 18.1(b)(4)(A).

(2) Property Insurance; Earthquake and Flood Insurance. Upon Completion of the Initial Improvements, and upon completion of Subsequent Construction of any additional Improvements, Tenant shall maintain property insurance policies with coverage at least as broad as Insurance Services Office ("ISO") form CP 10 30 06 95 ("Causes of Loss - Special Form"), including earthquake, subject to the provisions of Section 18.1(b)(3)(B), and flood, subject to the provisions of Section 18.1(b)(4)(B), in an amount not less than 100% of the then-current full replacement cost of the Improvements and other property being insured pursuant thereto (including building code upgrade coverage and the cost of any foundations, excavations and footings on that portion of the Premises); provided, however, that as to both earthquake insurance and flood insurance separate sublimits of the insurance required under this Section 18.1(a)(2) and the insurance required under Section 18.1(a)(7) may be required in order to comply with the requirements of Section 18.1(b)(3)(B) and Section 18.1(b)(4)(B). In addition to the foregoing, Tenant may insure its Personal Property in such amounts as Tenant deems appropriate. Landlord shall have no interest in the proceeds of such insurance, and the proceeds of such insurance shall not be subject to the provisions of Section 12.4(c) and shall not be required to be paid to a trustee under Section 12.4(b).

(3) Commercial General Liability Insurance. Tenant shall maintain "Commercial General Liability" insurance policies with coverage at least as broad as

ISO form CG 00 01 10 93, insuring against claims for bodily injury (including death), property damages, personal injury and advertising injury occurring upon the Premises (including the Improvements), the Park Access Parcel, or operations incidental or necessary thereto located on the Premises or any part of the Premises, such insurance to afford protection in an amount not less than _____ Million Dollars ($___,000,000) each occurrence covering bodily injury and broad form property damage including contractual liability (which includes coverage of the indemnity in Section 17.1(i)), and products and completed operations coverage, except that such insurance in excess of $1,000,000 may be covered by a so-called "umbrella" or "excess coverage" policy. In addition, if Tenant has (or is required under Laws to have) a liquor license and is selling or distributing alcoholic beverages on the Premises, then Tenant shall maintain liquor liability coverage in appropriate amounts, and Tenant shall require any Subtenant who has (or is required under Laws to have) a liquor license and who is selling or distributing alcoholic beverages on the Premises, to maintain such coverage.

(4) Workers' Compensation Insurance. During any period in which Tenant has employees as defined in the California Labor Code, Tenant shall maintain policies of workers' compensation insurance, including employer's liability coverage with limits not less than $1,000,000 each accident (except that such insurance in excess of $500,000 each accident may be covered by a so-called "umbrella" or "excess coverage" policy) covering all persons employed by Tenant in connection with the use, operation and maintenance of the Premises and the Improvements. In addition, if any employees of Tenant are eligible for U.S. Longshore and Harbor Workers' Act benefits or Jones Act benefits, Tenant shall maintain coverage for such benefits, as applicable, in amounts as required by law.

(5) Boiler and Machinery Insurance. Tenant shall maintain boiler and machinery insurance covering damage to or loss or destruction of machinery and equipment located on the Premises or in the Improvements that is used by Tenant for heating, ventilating, air-conditioning, power generation and similar purposes, in an amount not less than one hundred percent (100%) of the actual replacement value of such machinery and equipment.

(6) Business Automobile Insurance. Tenant shall maintain policies of business automobile liability insurance covering all owned, non-owned or hired motor vehicles to be used in connection with Tenant's use and occupancy of the Premises, affording protection for bodily injury (including death) and property damage in the form of Combined Single Limit Bodily Injury and Property Damage policy with limits of not less than One Million Dollars ($1,000,000) per occurrence (except that such insurance in excess of Five Hundred Thousand Dollars ($500,000) per occurrence may be covered by a so-called "umbrella" or "excess coverage" policy).

(7) Business Interruption Insurance. Tenant shall maintain business interruption insurance for loss caused by any of the perils or hazards set forth in and required to be insured pursuant to Sections 18.1(a)(1), (2) and (5) covering a period of not less than two (2) years during construction of the Initial Improvements, and a period of one (1) year

following Completion, with a limit of not less than Fifteen Million Dollars ($15,000,000) per year.

(8) Watercraft Liability Insurance. If Tenant operates, or causes to be operated, any watercraft, Tenant shall maintain or cause to be maintained, Protection and Indemnity insurance, with limits not less than $1,000,000 each occurrence, including coverage for owned and non-owned watercraft.

(9) Aircraft Liability Insurance. If Tenant operates, or causes to be operated, any aircraft, Tenant shall maintain or cause to be maintained, Aircraft liability insurance, with limits not less than $1,000,000 each occurrence, including coverage for owned and non-owned aircraft.

(10) Environmental Liability Insurance. During the course of any Hazardous Materials Remediation activities taking place prior to Completion of the Initial Improvements, Tenant shall maintain, or cause its contractor or consultant to maintain, environmental pollution or contamination liability insurance, on an occurrence form, with limits of not less than Five Million Dollars ($5,000,000) each occurrence combined single liability for Bodily Injury and Property Damage or, with the approval of Landlord (such approval not to be unreasonably withheld, conditioned or delayed), such coverage may be provided with a lower limit or on a claims made form.

(b) General Requirements. All insurance provided for pursuant to this Section:

(1) Shall be carried under a valid and enforceable policy or policies issued by insurers of recognized responsibility that are rated Best A⁻:VII or better (or a comparable successor rating) and legally authorized to sell such insurance within the State of California;

(2) As to property insurance, shall name the Landlord as loss payee as its interest may appear, subject to the rights of any Mortgagee, and as to liability insurance (other than the workers' compensation and other liability insurance referred to in Section 18.1(a)(4)) shall name as additional insureds the following: "THE CITY AND COUNTY OF SAN FRANCISCO AND THE SAN FRANCISCO PORT COMMISSION AND THEIR OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS" and the Redevelopment Agency.

(3) As to earthquake insurance only:

(A) during construction of the Initial Improvements, such insurance shall be in an amount at least equal to the maximum amount as is available at commercially reasonable rates from recognized carriers (with a deductible of up to but not to

exceed five percent (5%) of the then-current, full replacement cost of the Improvements or other property being insured pursuant thereto (including building code upgrade coverage and the cost of any foundations, excavations and footings and without any deduction being made for depreciation), except that a greater deductible will be permitted to the extent that such coverage is not available from recognized insurance carriers or at commercially reasonable rates;

(B) from and after Completion of the Initial Improvements, such insurance shall be in an amount at least equal to that required by the holder of the First Mortgage (provided such Mortgage is a Non-Affiliate Mortgage), or if there is no First Mortgage, then the lesser of (i) the amount available at commercially reasonable rates from recognized insurance carriers, or (ii) 100% of the maximum probable loss that would be sustained by the Premises as a result of the occurrence of an earthquake measuring 8.3 on the Richter scale, as determined not less frequently than every five (5) years by a consultant chosen and paid for by Tenant who is reasonably satisfactory to Landlord, in each case, with a deductible of up to but not to exceed an amount that is necessary to make such earthquake insurance available at a commercially reasonable rate;

(4) As to flood insurance only:

(A) during construction of the Initial Improvements, such insurance shall be in an amount at least equal to the maximum amount as is available at commercially reasonable rates from recognized insurance carriers (with a deductible up to, but not to exceed fifteen percent (15%) of the then-current, full replacement cost of the Improvements or other property being insured pursuant thereto (including building code upgrade coverage and the cost of any foundations, excavations and footings and without any deduction being made for depreciation) except that a greater deductible will be permitted to the extent that such coverage is not available from recognized insurance carriers or at commercially reasonable rates;

(B) from and after Completion of the Improvements, such insurance shall be in an amount at least equal to the amount available at commercially reasonable rates from recognized insurance carriers, with a deductible of up to but not to exceed an amount that is necessary to make such flood insurance available at commercially reasonable rates.

(5) Shall be evaluated by Landlord and Tenant for adequacy not less frequently than every five (5) years from the anniversary date of Completion of the Improvements. Following consultation with Tenant, Landlord may, upon not less than ninety (90) days prior written notice, require Tenant to increase the insurance limits for all or any of its general liability policies if in the reasonable judgment of the Landlord's Risk Manager it is the general commercial practice in San Francisco or in other cities or counties around the country to carry insurance for facilities similar to the Premises in amounts substantially greater than the amounts carried by Tenant with respect to risks comparable to those associated with use of the

Premises. If Landlord's Risk Manager determines that insurance limits required under this Section may be decreased in light of such commercial practice and the risks associated with use of the Premises, Landlord shall notify Tenant of such determination, and Tenant shall have the right to decrease the insurance coverage required under this Lease accordingly. In such event, Tenant shall promptly deliver to Landlord a certificate evidencing such new insurance amounts.

(6) Shall provide that no cancellation, modification or termination of such insurance for any reason shall be effective until at least thirty (30) days after mailing or otherwise sending written notice of such cancellation, modification or termination to Landlord;

(7) As to Commercial General Liability only, shall provide that it constitutes primary insurance to any other insurance available to any additional insured, with respect to claims insured by such policy, and that insurance applies separately to each insured against whom claim is made or suit is brought;

(8) Shall provide for waivers of any right of subrogation that the insurer of such party may acquire against each party hereto with respect to any losses and damages that are of the type covered under the policies required by Sections 18.1(a)(1), (2) and (5);

(9) Shall be subject to the approval of Landlord, which approval shall be limited to whether or not such insurance meets the terms of this Lease; and

(10) If any of the insurance required hereunder is provided under a claims-made form of policy, Tenant shall maintain such coverage continuously throughout the Term, and following the expiration or termination of the Term, Tenant shall maintain, without lapse for a period of two (2) years beyond the expiration or termination of this Lease, coverage with respect to occurrences during the Term that give rise to claims made after expiration or termination of this Lease.

(11) Shall for property insurance only, provide (if an endorsement to such effect is available at a commercially reasonable cost) that all losses payable under all such policies that are payable to Landlord shall be payable notwithstanding any act or negligence of Tenant.

(c) Certificates of Insurance; Right of Landlord to Maintain Insurance. Tenant shall furnish Landlord certificates with respect to the policies required under this Section, together with copies of each such policy (if Landlord so requests) and evidence of payment of premiums, within thirty (30) days after the Commencement Date and at least ten (10) business days prior to the expiration date of each such policy. If at any time Tenant fails to maintain the insurance required pursuant to Section 18.1, or fails to deliver certificates or policies as required pursuant to this Section, then, upon five (5) business days' written notice to Tenant, Landlord

may obtain and cause to be maintained in effect such insurance by taking out policies with companies satisfactory to Landlord. Within ten (10) business days following demand, Tenant shall reimburse Landlord for all amounts so paid by Landlord, together with all costs and expenses in connection therewith and interest thereon at the Default Rate.

(d) Insurance of Others. If Tenant requires liability insurance policies to be maintained by Subtenants, contractors, subcontractors or others in connection with their use or occupancy of, or their activities on, the Premises, Tenant shall require that such policies include Tenant, Landlord, City (including its Port) and Redevelopment Agency as additional insureds, as their respective interests may appear.

18.2 Landlord Entitled to Participate.

With respect to property insurance, Landlord shall be entitled to participate in and consent to any settlement, compromise or agreement with respect to any claim for any loss in excess of Ten Million Dollars ($10,000,000) covered by the insurance required to be carried hereunder; provided, however, that (i) Landlord's consent shall not be unreasonably withheld, and (ii) no consent of Landlord shall be required in connection with any such settlement, compromise or agreement concerning damage to all or any portion of the Improvements if Tenant shall have agreed to commence and complete Restoration.

18.3 Release and Waiver.

Each Party hereby waives all rights of recovery and causes of action, and releases each other Party from any liability, losses and damages occasioned to the property of each such Party, which losses and damages are of the type covered under the property policies required by Sections 18.1(a)(1), (2) or (5) to the extent that such loss is reimbursed by an insurer.

SECTION 19. HAZARDOUS MATERIALS

19.1 Hazardous Materials Compliance.

(a) Compliance with Hazards Materials Laws. Tenant shall be responsible, subject to the terms and conditions of this Lease, for causing the Premises and the Improvements to comply with all Hazardous Materials Laws, including, without limitation, any deed restrictions, deed notices, soils management plans or certification reports required in connection with any Regulatory Approvals, whether or not any such Hazardous Materials Laws are in the contemplation of the Parties. Without limiting the generality of the foregoing, Tenant covenants and agrees that it will not Handle, nor will it permit the Handling of Hazardous Materials on, under or about the Premises, except in connection with the construction of the Improvements or in the ordinary course of business of Tenant or any Subtenant and, in any such case, in compliance with all Hazardous Materials Laws and the Rules and Regulations attached as Exhibit J. Any other use or Handling of Hazardous Materials by Tenant on or about the

Premises shall require Landlord's approval, which will not be unreasonably withheld, conditioned or delayed.

(b) Notice. Except for (x) building materials that do not contain asbestos, asbestos-containing materials, lead or polychlorinated biphenyl (PCBs), (y) Hazardous Materials that do not require a permit or license from, and (z) Hazardous Materials that need not be reported to, a governmental agency, which Hazardous Materials are used in the construction of the Premises or the ordinary course of Tenant's business or of any Subtenant's business and are used in compliance with all Hazardous Materials Laws, Tenant shall advise Landlord in writing promptly (but in any event within five (5) business days) after receiving notice of (i) the presence of any Hazardous Materials on, under or about the Premises, (ii) any action taken by Tenant in response to any (A) Hazardous Materials on, under or about the Premises or (B) Hazardous Materials Claims, and (iii) Tenant's discovery of the presence of Hazardous Materials on, under or about any real property adjoining the Premises. Tenant shall inform Landlord orally as soon as safely possible of any Release or discovery of Hazardous Materials, provided that the obligation to give such notice shall not jeopardize or impede emergency response actions. In addition, Tenant shall provide Landlord with copies of all communications with federal, state and local governments or agencies relating to Hazardous Materials Laws (other than privileged communications) and all communication with any Person relating to Hazardous Materials Claims (other than privileged communications).

(c) Landlord's Approval of Remediation. Except as required by law or to respond to an emergency and except as provided in Subparagraph (d) below, Tenant shall not take any Remediation in response to the presence, Handling, transportation or Release of any Hazardous Materials on, under or about the Premises unless Tenant shall have first submitted to Landlord for Landlord's approval, which approval shall not be unreasonably withheld or delayed, a written Hazardous Materials Remediation plan and the name of the proposed contractor which will perform the work. Landlord shall approve or disapprove of such Hazardous Materials Remediation plan and the proposed contractor promptly, but in any event within thirty (30) days after receipt of such plan and the name or such contractor. If Landlord disapproves of any such Hazardous Materials Remediation plan, Landlord shall specify in writing the reasons for its disapproval. Any such Remediation undertaken by Tenant shall be done in a manner so as to minimize any impairment to the Premises. In the event Tenant undertakes any Remediation with respect to any Hazardous Materials on, under or about the Premises, Tenant shall conduct and complete such Remediation (x) in compliance with all applicable Hazardous Materials Laws, (y) to the reasonable satisfaction of Landlord, and (z) in accordance with the orders and directives of all federal, state and local governmental authorities, including, but not limited to, the RWQCB and the San Francisco Department of Public Health.

(d) Tenant's Implementation of Required Remediation or Management Plans. Tenant shall undertake and implement all Hazardous Materials management or remediation plans which are required by any regulatory agencies (or which are conditions of any Regulatory Approvals) in connection with the construction of the Improvements or the operation

of the Project, and have been approved by Landlord (the "Remediation Plans"), within the time periods and in the manner required under such plans. The Remediation Plans include, but are not limited to, the Soil Management Plan (Geomatrix, November, 1996), the Certification Report (as defined in the Deed Restriction), the Site Construction Worker Health and Safety Plan, plans for evaluating and mitigating potential impacts of dewatering, if dewatering is required, plans for identifying and appropriately drafting hazardous building materials, and plans for stormwater pollution prevention. Any proposed changes to the Remediation Plans shall be subject to the prior approval of Landlord, which shall not be unreasonably withheld, condition or delayed, subject to the provisions of Section 6.1.

19.2 Hazardous Materials Indemnity.

Tenant shall Indemnify Landlord and the Other Indemnified Parties from and against any and all Losses (including Hazardous Materials Claims) which arise out of or relate in any way to (A) any Handling or Release of any Hazardous Materials in or on the Premises or the Access Parcels at any time during the Term of this Lease by Tenant or its Agents (other than Hazardous Materials in, on, under or about the Premises due to the acts of any Indemnified Party); or (B) the presence of Hazardous Materials in, on or under the Premises during the Term (other than due to the acts of any Indemnified Party), except to the extent of any Losses arising out of the gross negligence or willful misconduct of any Indemnified Party, or to the extent of Losses attributable to the actual or asserted diminution in value of the Premises or Landlord's interest in the Premises arising out of the discovery on or after the Commencement Date of Hazardous Materials in, on, under or about the Premises; and (C) any failure by Tenant to comply with Hazardous Materials Laws and Remediation Plans in respect of the Premises. In addition, Tenant shall require each of its Subtenants to similarly Indemnify Landlord and the other Indemnified Parties from Losses arising out of or relating to the Handling or Release of any Hazardous Materials, or the failure to comply with Hazardous Materials Laws, by such Subtenant.

SECTION 20. DELAY DUE TO FORCE MAJEURE

20.1 Delay Due to Force Majeure.

For all purposes of this Lease, a Party whose performance of its obligations hereunder is hindered or affected by events of Force Majeure shall not be considered in breach of or in default in its obligations hereunder to the extent of any delay resulting from Force Majeure, provided, however, that the provisions of this Section 20.1 shall not apply to Tenant's obligation to pay Rent, including Additional Rent. A Party seeking an extension of time pursuant to the provisions of this Section 20.1 shall give notice to the other Party describing with reasonable particularity (to the extent known) the facts and circumstances constituting Force Majeure within (a) a reasonable time (but not more than thirty (30) days unless the other Party's rights are not prejudiced by such delinquent notice) after knowledge of the beginning of such enforced delay or (b) promptly after the other Party's demand for performance.

SECTION 21. LANDLORDS' RIGHT TO PERFORM TENANT'S COVENANTS

21.1 Landlord May Perform in Emergency.

Without limiting any other provision of this Lease, and in addition to any other rights or remedies available to Landlord for any default on the part of Tenant under this Lease, if Tenant fails to perform any maintenance or repairs required to be performed by Tenant hereunder within the time provided for such performance, which failure gives rise to an emergency which creates an imminent danger to public health or safety, as reasonably determined by Landlord, Landlord may at its sole option, but shall not be obligated to, perform such obligation for and on behalf of Tenant, provided that, if there is time, Landlord first gives Tenant such notice and opportunity to take corrective action as is reasonable under the circumstances. Nothing in this Section shall be deemed to limit Landlord's ability to act in its legislative or regulatory capacity, including the exercise of its police powers, nor to waive any claim on the part of Tenant that any such action on the part of Landlord constitutes a Condemnation or an impairment of Tenant's contract with Landlord.

21.2 Landlord May Perform Following Tenant's Failure to Perform.

Without limiting any other provision of this Lease, and in addition to any other rights or remedies available to Landlord for any default on the part of Tenant under this Lease, if at any time Tenant fails to pay any sum required to be paid by Tenant pursuant to this Lease to any Person other than Landlord (other than any Imposition, with respect to which the provisions of Section 4.3 shall apply), or if Tenant fails to perform any obligation on Tenant's part to be performed under this Lease, which failure continues without cure following written notice from Landlord for a period of thirty (30) days (or, if Section 18.1(c) is applicable, which failure continues for five (5) business days after written notice from Landlord), and is not the subject of a contest under Section 5, then, Landlord may, at its sole option, but shall not be obligated to, pay such sum or perform such obligation for and on behalf of Tenant. Notwithstanding the foregoing, however, if within such period Tenant gives notice to Landlord that such failure is due to delay caused by Force Majeure, or is the subject of a contest under Section 5, or that cure of such failure cannot reasonably be completed within such period, then Landlord will not pay such sum or perform such obligation during the continuation of such contest or such Force Majeure delay or extended cure period, as the case may be, for so long thereafter as Tenant continues diligently to prosecute such contest or cure or the resolution of such event of Force Majeure.

21.3 Tenant's Obligation to Reimburse Landlord.

If pursuant to the provisions of Sections 18.1(c), 21.1, or 21.2, Landlord pays any sum or performs any obligation required to be paid or performed by Tenant hereunder, Tenant shall reimburse Landlord within ten (10) business days following demand, as Additional Rent, the sum so paid, or the reasonable expense incurred by Landlord in performing such obligation,

together with interest thereon at the Default Rate, if such payment is not made within such period, computed from the date of Landlord's demand until payment is made. Landlord's rights under this Section 21 shall be in addition to its rights under any other provision of this Lease (including, but not limited to, access to the security deposit required under Section 15 of this Lease) or under applicable laws.

SECTION 22. EVENTS OF DEFAULT; TERMINATION

22.1 Events of Default.

Subject to the provisions of Section 22.2, the occurrence of any one or more of the following events shall constitute an "Event of Default" under the terms of this Lease:

(a) Tenant fails to pay when due any Rent payable by Tenant under this Lease, which failure continues for ten (10) days following written notice from Landlord to Tenant (it being understood and agreed that the notice required to be given by Landlord under this Section 22.1(a) shall also constitute the notice required under Section 1161 of the California Code of Civil Procedure, and shall satisfy the requirement that notice be given pursuant to such section);

(b) An Event of Default (as defined in the DDA) on the part of Tenant, as Developer, occurs under the DDA (so long as it is in effect), subject, however, to the rights of any Mortgagee hereunder;

(c) Tenant files a petition for relief, or an order for relief is entered against Tenant, in any case under applicable bankruptcy or insolvency Law, or any comparable law that is now or hereafter may be in effect, whether for liquidation or reorganization, which proceedings if filed against Tenant are not dismissed or stayed within one hundred twenty (120) days;

(d) A writ of execution is levied on the Leasehold Estate which is not released within one hundred twenty (120) days, or a receiver, trustee or custodian is appointed to take custody of all or any material part of the property of Tenant, which appointment is not dismissed within one hundred twenty (120) days; provided, however, the appointment of a receiver pursuant to the exercise by a Mortgagee of its rights under a Mortgage shall not be an Event of Default hereunder;

(e) Tenant makes a general assignment for the benefit of its creditors;

(f) Tenant abandons the Premises, within the meaning of California Civil Code Section 1951.2 (or its successor), which abandonment is not cured within fifteen (15) days after notice of belief of abandonment from Landlord;

(g) A default on the part of Tenant, as Owner, occurs under the OPA (so long as it is in effect), including, without limitation, a failure by Tenant to pay any shortfall in tax increment revenue from the Premises needed to pay debt service in full on the Tax Allocation Bonds as provided under the OPA, which default is not cured by Tenant within any grace or cure period specified in the OPA with respect to such default, subject, however, to the rights of any Mortgagee to cure any such default as specified in the OPA or this Lease;

(h) Tenant fails to maintain any insurance required to be maintained by Tenant under this Lease, which failure continues without cure for five (5) business days after written notice from Landlord, or, if such cure cannot be reasonably completed within such five (5) business day period, if Tenant does not within such five (5) business day period commence such cure, or having so commenced, does not prosecute such cure with diligence and dispatch to completion within a reasonable time thereafter; or

(i) Tenant violates any other covenant, or fails to perform any other obligation to be performed by Tenant under this Lease (including, but not limited to, any Mitigation Measures or Improvement Measures) at the time such performance is due, and such violation or failure continues without cure for more than thirty (30) days after written notice from Landlord specifying the nature of such violation or failure, or, if such cure cannot reasonably be completed within such thirty (30)-day period, if Tenant does not within such thirty (30)-day period commence such cure, or having so commenced, does not prosecute such cure with diligence and dispatch to completion within a reasonable time thereafter.

22.2 Special Provisions Concerning Mortgagees and Events of Default.

Notwithstanding anything in this Lease to the contrary, the exercise by a Mortgagee of any of its remedies under its Mortgage shall not, in and of itself, constitute a default under this Lease.

SECTION 23. REMEDIES

23.1 Landlord's Remedies Generally.

Upon the occurrence and during the continuance of an Event of Default under this Lease (but without obligation on the part of Landlord following the occurrence of an Event of Default to accept a cure of such Event of Default other than as required by law or the terms of this Lease), Landlord shall have all rights and remedies provided in this Lease or available at law or equity; provided, however, notwithstanding anything to the contrary in this Lease, the remedies of Landlord for any Event of Default by Tenant under the Program in Diversity or the Prevailing Wage Provisions shall be limited to the remedies provided in such exhibits. All of Landlord's rights and remedies shall be cumulative, and except as may be otherwise provided by applicable law, the exercise of any one or more rights shall not preclude the exercise of any others.

23.2 Right to Keep Lease in Effect.

(a) Continuation of Lease. Upon the occurrence of an Event of Default hereunder, Landlord may continue this Lease in full force and effect, as permitted by California Civil Code Section 1951.4 (or any successor provisions). Specifically, Landlord has the remedy described in California Civil Code Section 1951.4 (lessor may continue lease in effect after lessee's breach and abandonment and recover rent as it becomes due, if lessee has right to sublet or assign, subject only to reasonable limitations).

(b) No Termination. No act by Landlord allowed by this Section 23.2, nor any appointment of a receiver upon Landlord's initiative to protect its interest under this Lease, shall terminate this Lease, unless and until Landlord notifies Tenant in writing that Landlord elects to terminate this Lease.

23.3 Right to Terminate Lease.

(a) Damages. Landlord may terminate this Lease at any time after the occurrence (and during the continuation) of an Event of a Default by giving written notice of such termination. Termination of this Lease shall thereafter occur on the date set forth in such notice. Acts of maintenance or preservation, and any appointment of a receiver upon Landlord's initiative to protect its interest hereunder shall not in any such instance constitute a termination of Tenant's right to possession. No act by Landlord other than giving notice of termination to Tenant in writing shall terminate this Lease. On termination of this Lease, Landlord shall have the right to recover from Tenant all sums allowed under California Civil Code Section 1951.2, including, without limitation, the following:

(i) The worth at the time of the award of the unpaid Rent which had been earned at the time of termination of this Lease;

(ii) The worth at the time of the award of the amount by which the unpaid Rent which would have been earned after the date of termination of this Lease until the time of the award exceeds the amount of the loss of Rent that Tenant proves could have been reasonably avoided;

(iii) The worth at the time of the award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of the loss of Rent that Tenant proves could have been reasonably avoided; and

(iv) Any other amount necessary to compensate Landlord for all detriment proximately caused by the default of Tenant, or which in the ordinary course of things would be likely to result therefrom.

(v) "The worth at the time of the award", as used in Section 23.3(a)(i) and (ii) shall be computed by allowing interest at a rate per annum equal to the Default Rate. "The worth at the time of the award", as used in Section 23.3(a)(iii), shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus one percent (1%).

(b) Interest. Rent not paid when due shall bear interest from the date due until paid at the Default Rate.

(c) Waiver of Rights to Recover Possession. In the event Landlord terminates Tenant's right to possession of the Premises pursuant to this Section 23.3, Tenant hereby waives any rights to recover or regain possession of the Premises under any rights of redemption to which it may be entitled by or under any present or future Law, including, without limitation, California Code of Civil Procedure Sections 1174 and 1179 or any successor provisions.

23.4 Continuation of Subleases and Other Agreements.

Subject to the provisions of Section 16.4 relating to Non-Disturbance Agreements, following an Event of Default and termination of Tenant's interest in this Lease (subject to rights of Mortgagees to cure, or obtain a New Lease, granted under Section 42), Landlord shall have the right, at its sole option, to assume any and all Subleases and agreements by Tenant for the maintenance or operation of the Premises. Tenant hereby further covenants that, upon request of Landlord following an Event of Default and termination of Tenant's interest in this Lease, Tenant shall execute, acknowledge and deliver to Landlord such further instruments as may be necessary or desirable to vest or confirm or ratify vesting in Landlord the then existing Subleases and other agreements then in force, as above specified.

SECTION 24. LANDLORD'S EQUITABLE RELIEF

24.1 Landlord's Equitable Relief.

In addition to the other remedies provided in this Lease, Landlord shall be entitled at any time after a default or threatened default by Tenant to seek injunctive relief or an order for specific performance, where appropriate to the circumstances of such default. In addition, after the occurrence of an Event of Default, Landlord shall be entitled to any other equitable relief which may be appropriate to the circumstances of such Event of Default.

SECTION 25. NO WAIVER

25.1 No Waiver by Landlord or Tenant.

No failure by Landlord or Tenant to insist upon the strict performance of any term of this Lease or to exercise any right, power or remedy consequent upon a breach of any such term, shall be deemed to imply any waiver of any such breach or of any such term unless clearly expressed in writing by the Party against which waiver is being asserted. No waiver of any breach shall affect or alter this Lease, which shall continue in full force and effect, or the respective rights of Landlord or Tenant with respect to any other then existing or subsequent breach.

25.2 No Accord or Satisfaction.

No submission by Tenant or acceptance by Landlord of full or partial Rent or other sums during the continuance of any failure by Tenant to perform its obligations hereunder shall waive any of Landlord's rights or remedies hereunder or constitute an accord or satisfaction, whether or not Landlord had knowledge of any such failure. No endorsement or statement on any check or remittance by or for Tenant or in any communication accompanying or relating to such payment shall operate as a compromise or accord or satisfaction unless the same is approved as such in writing by Landlord. Landlord may accept such check, remittance or payment and retain the proceeds thereof, without prejudice to its rights to recover the balance of any Rent, including any and all Additional Rent, due from Tenant and to pursue any right or remedy provided for or permitted under this Lease or in law or at equity. No payment by Tenant of any amount claimed by Landlord to be due as Rent hereunder (including any amount claimed to be due as Additional Rent) shall be deemed to waive any claim which Tenant may be entitled to assert with regard to the making of such payment or the amount thereof, and all such payments shall be without prejudice to any rights Tenant may have with respect thereto, whether or not such payment is identified as having been made "under protest" (or words of similar import).

SECTION 26. TENANT'S RECOURSE AGAINST LANDLORD

26.1 No Recourse Beyond Value of Property Except as Specified.

Tenant agrees that except as otherwise specified in this Section 26.1, Tenant will have no recourse with respect to, and Landlord shall not be liable for, any obligation of Landlord under this Lease, or for any claim based upon this Lease, except to the extent of the Fair Market Value of Landlord's fee interest in the Premises (as encumbered by this Lease). Such limitation on Tenant's recourse shall not apply (A) to damages for willful misconduct on the part of Landlord, City and their respective commissioners, officers or employees, (B) in connection with any Condemnation, (C) to the obligations of City under Section 4.4, (D) to any obligation undertaken pursuant to Section 6.1(d)(iii), Section 12.3(b), Section 12.3(g), or Section 13.3(a), or (E) to Landlord's obligations under Section 33.1. By Tenant's execution and delivery hereof and

as part of the consideration for Landlord's obligations hereunder Tenant expressly waives all such liability.

26.2 No Recourse Against Specified Persons.

No commissioner, officer or employee of Landlord or City will be personally liable to Tenant, or any successor in interest, for any Event of Default by Landlord, and Tenant agrees that it will have no recourse with respect to any obligation of Landlord under this Lease, or for any amount which may become due Tenant or any successor or for any obligation or claim based upon this Lease, against any such Person.

SECTION 27. DEFAULT BY LANDLORD.

27.1 Default by Landlord.

No event of default on the part of Landlord shall be deemed to have occurred hereunder unless and until Landlord shall fail to perform or comply with any obligation on its part hereunder and (i) such failure shall continue for more than the time of any cure period provided herein, or, (ii) if no cure period is provided herein, for more than thirty (30) days after written notice thereof from Tenant, or, (iii) if such default cannot reasonably be cured within such thirty (30)-day period, Landlord shall not within such period commence with due diligence and dispatch the curing of such default, or, having so commenced, shall thereafter fail or neglect to prosecute or complete with diligence and dispatch the curing of such default. Upon the occurrence of an event of default by Landlord described above, Tenant shall have the right to offset or deduct from the Rent becoming due hereunder, the amount of all actual damages incurred by Tenant as a direct result of Landlord's default, but only after obtaining a final judgment in a court of competent jurisdiction for such damages in accordance with applicable Law and the provisions of this Lease. In addition, Tenant may, at any time following a default or a threatened default by Landlord, seek injunctive relief or an order for specific performance, or both, where appropriate to the circumstances of any such default.

27.2 Survival of Certain Obligations.

Subject to the provisions of Sections 27.1 and 28.2, no expiration or other termination of this Lease shall relieve Landlord of its liabilities and obligations arising hereunder before such expiration or termination of this Lease. All such liabilities and obligations shall survive such expiration or termination.

SECTION 28. LIMITATIONS ON LANDLORD'S LIABILITY

28.1 Waiver of Consequential Damages.

As a material part of the consideration for this Lease, Landlord shall not be liable for, and Tenant hereby waives any claim against Landlord for, any consequential damages arising out of any default by Landlord.

28.2 Limitation on Landlord's Liability Upon Transfer.

In the event of any transfer of Landlord's interest in and to the Premises, Landlord, subject to the provisions hereof, (and in case of any subsequent transfers, the then transferor) will automatically be relieved from and after the date of such transfer of all liability with regard to the performance of any covenants or obligations contained in this Lease thereafter to be performed on the part of Landlord, but not from liability incurred by Landlord (or such transferor, as the case may be) on account of covenants or obligations to be performed by Landlord (or such transferor, as the case may be) hereunder before the date of such transfer; provided, however, that Landlord (or such subsequent transferor) has transferred to the transferee any funds in Landlord's possession (or in the possession of such transferor) in which Tenant has an interest, in trust, for application pursuant to the provisions hereof, and such transferee has assumed all liability for all such funds so received by such transferee from Landlord.

SECTION 29. ESTOPPEL CERTIFICATES BY TENANT

29.1 Estoppel Certificate by Tenant.

Tenant shall execute, acknowledge and deliver to Landlord (or at Landlord's request, to a prospective purchaser or mortgagee of Landlord's interest in the Property), within ten (10) business days after a request, a certificate stating to the best of Tenant's knowledge (a) that this Lease and/or the Baseball Sublease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect, as modified, and stating the modifications or, if this Lease is not in full force and effect, so stating), (b) the dates, if any, to which any Rent and other sums payable hereunder and/or the Baseball Sublease have been paid, (c) that no notice has been received by Tenant of any default hereunder and/or under the Baseball Sublease which has not been cured, except as to defaults specified in such certificate and (d) any other matter actually known to Tenant, directly related to this Lease and/or the Baseball Sublease and reasonably requested by Landlord, including, but not limited to, matters relating to any financing permitted under Section 42. In addition, if requested, Tenant shall attach to such certificate a copy of this Lease and/or the Baseball Sublease, and any amendments thereto, and include in such certificate a statement by Tenant that, to the best of its knowledge, such attachment is a true, correct and complete copy of this Lease and/or the Baseball Sublease, as applicable, including all modifications thereto. Any such certificate may be relied upon by any Landlord, State Lands, and any prospective purchaser or mortgagee of the Premises or any

part of Landlord's interest therein. Tenant will also use commercially reasonable efforts (including inserting a provision similar to this Section into each Sublease) to cause the Subtenant under the Baseball Sublease or any other Sublease to execute, acknowledge and deliver to Landlord, within ten (10) business days after request, an estoppel certificate covering the matters described in clauses (a), (b), (c) and (d) above with respect to such Sublease.

SECTION 30. ESTOPPEL CERTIFICATES BY LANDLORD

30.1 Estoppel Certificate by Landlord.

Landlord shall execute, acknowledge and deliver to Tenant (or at Tenant's request, to any Subtenant, prospective Subtenant, Mortgagee, prospective Mortgagee, or other prospective transferee of Tenant's interest under this Lease), within ten (10) business days after a request, a certificate stating to the best of Landlord's knowledge (a) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect as modified, and stating the modifications or if this Lease is not in full force and effect, so stating), (b) the dates, if any, to which Rent and other sums payable hereunder have been paid, (c) whether or not, to the knowledge of Landlord, there are then existing any defaults under this Lease (and if so, specifying the same) and (d) any other matter actually known to Landlord, directly related to this Lease and reasonably requested by the requesting Party. In addition, if requested, Landlord shall attach to such certificate a copy of this Lease and any amendments thereto, and include in such certificate a statement by Landlord that, to the best of its knowledge, such attachment is a true, correct and complete copy of this Lease, including all modifications thereto. Any such certificate may be relied upon by Tenant or any Subtenant, prospective Subtenant, Mortgagee, prospective Mortgagee, or other prospective transferee of Tenant's interest under this Lease.

SECTION 31. APPROVALS BY LANDLORD

31.1 Approvals by Landlord.

The Port's Executive Director or his or her designee, is authorized to execute on behalf of Landlord any closing or similar documents and any contracts, agreements, memoranda or similar documents with State, regional or local authorities or other Persons that are necessary or proper to achieve the purposes and objectives of this Lease and do not materially increase the obligations of Landlord hereunder, if the Executive Director determines, after consultation with, and approval as to form by, the City Attorney, that the document is necessary or proper and in Landlord's best interests. The Port Executive Director's signature of any such documents shall conclusively evidence such a determination by him or her. Wherever this Lease requires or permits the giving by Landlord of its consent or approval, or whenever an amendment, waiver, notice, or other instrument or document is to be executed by or on behalf of Landlord, the Executive Director, or his or her designee, shall be authorized to execute such instrument on behalf of Landlord, except as otherwise provided by applicable law, including the City's Charter.

31.2 Fees for Review.

Within thirty (30) days after Landlord's written request, Tenant shall pay Landlord, as Additional Rent, Landlord's costs, including, without limitation, attorneys' fees and costs (and including fees and costs of the City Attorney, to the extent actually charged to and paid by Landlord) incurred in connection with the review, investigation, processing, documentation and/or approval of any proposed Transfer, estoppel certificate, Non-disturbance Agreement and Subsequent Construction. Tenant shall pay such costs regardless of whether or not Landlord consents to such proposal, except only in any instance where Landlord has wrongfully withheld, delayed or conditioned its consent in violation of this Lease.

SECTION 32. NO MERGER OF TITLE

32.1 No Merger of Title.

There shall be no merger of the Leasehold Estate with the fee estate in the Premises by reason of the fact that the same Person may own or hold (a) the Leasehold Estate or any interest in such Leasehold Estate, and (b) any interest in such fee estate. No such merger shall occur unless and until all Persons having any interest in the Leasehold Estate and the fee estate in the Premises shall join in and record a written instrument effecting such merger.

SECTION 33. QUIET ENJOYMENT

33.1 Quiet Enjoyment.

Subject to the Permitted Title Exceptions, the terms and conditions of this Lease and applicable Laws, Landlord agrees that Tenant, upon paying the Rent and observing and keeping all of the covenants under this Lease on its part to be kept, shall lawfully and quietly hold, occupy and enjoy the Premises during the Term of this Lease without hindrance or molestation of anyone claiming by, through or under Landlord. Notwithstanding the foregoing, Landlord shall have no liability to Tenant in the event any defect exists in the title of Landlord as of the Commencement Date, whether or not such defect affects Tenant's rights of quiet enjoyment (unless such defect is due to Landlord's willful misconduct) and, except as otherwise expressly provided for under the terms and provisions of this Lease, no such defect shall be grounds for a termination of this Lease by Tenant. Tenant's sole remedy with respect to any such existing title defect shall be to obtain compensation by pursuing its rights against any title insurance company or companies issuing title insurance policies to Tenant, unless such defect is due to Landlord's willful misconduct.

SECTION 34. SURRENDER OF PREMISES

34.1 End of Lease Term.

(a) Conditions of Premises. Upon the expiration or other termination of the Term of this Lease, Tenant shall quit and surrender to Landlord the Premises in good order and condition, reasonable wear and tear excepted to the extent the same is consistent with maintenance of the Premises in the condition required hereunder. The Premises shall be surrendered with all Improvements, repairs, alterations, additions, substitutions and replacements thereto subject to Section 34.2. Tenant hereby agrees to execute all documents as Landlord may deem necessary to evidence or confirm any such other termination.

(b) Subleases. Upon any termination of this Lease (provided no Mortgagee has elected to obtain a New Lease), Landlord shall have the right to terminate all Subleases hereunder except for those Subleases with respect to which Landlord has entered into Non-Disturbance Agreements as provided in Section 16.4, or which Landlord has agreed to assume pursuant to Section 23.4.

(c) Personal Property. Upon expiration or termination of this Lease, Tenant and all Subtenants shall have the right to remove their respective trade fixtures and other personal property. At Landlord's request, Tenant shall remove, at no cost to Landlord, any Personal Property belonging to Tenant which then remains on the Premises (excluding any personal property owned by Subtenants or other Persons). If the removal of such Personal Property causes damage to the Premises, Tenant shall repair such damage, at no cost to Landlord, subject to Section 34.2.

34.2 Landlord's Right to Require Demolition.

(a) Tenant's Failure to Extend for at Least Two Extended Terms. If Tenant does not extend the Initial Term for at least two (2) additional Extended Terms in accordance with the provisions hereof, Landlord shall have the right to require that Tenant Demolish the Improvements, or any portion thereof specified by Landlord (other than the Waterfront Promenade and Ferry Landing Facilities) upon the expiration of the Initial Term or the first Extended Term, as the case may be, including repair of any damage to the bulkhead wall and pier substructure which may be caused by such Demolition. If Landlord requires Demolition of less than all of the Improvements, Tenant shall have no responsibility for the architectural or structural integrity of any remaining portion of the Improvements not Demolished, or for performing any repairs which may be necessary following a partial Demolition to place any such remainder in structurally or architecturally sound condition, except for repairing (i) any damage to the Waterfront Promenade or any Improvements financed with proceeds of the Tax Allocation Bonds which are structurally distinct from other Improvements being Demolished, and (ii) any damage caused by Tenant's failure to perform such Demolition properly. Landlord shall give Tenant notice of its election to require such Demolition and specifying the portion of the

Improvements to be Demolished at least one hundred twenty (120) days in advance of the scheduled expiration date of the Initial Term or the first Extended Term, as applicable. Tenant shall perform such Demolition at no cost to Landlord, and shall complete such Demolition within a reasonable period not exceeding one hundred eighty (180) days after the later of (i) the end of the last Baseball Season or (ii) September 1 of the last year of this Lease, or (iii) in the case of a termination of this Lease under Section 12, the date Landlord's right to elect the application of clause (1) of Section 12.3(b) expires, as the same may be extended by Force Majeure (the "Demolition Period").

(b) Tenant's Election to Extend for Two or More Extended Terms. If Tenant extends the Term for two (2) or more Extended Terms in accordance with the provisions of this Lease, then on and after the expiration of the second Extended Term, Landlord shall have no right to require Demolition as provided in Section 34.2(a).

(c) License to Occupy for Purposes of Demolition. Tenant is hereby granted a license entitling Tenant (and its Agents) to occupy the Premises after the expiration of the Term (or after the early termination of the Term under Sections 12, if applicable) during the Demolition Period for the purposes of performing any Demolition required under Sections 12, 6.1(d) or under this Section 34. Such occupancy shall be on all of the terms and conditions hereof, except that no Rent shall be payable in connection with such occupancy provided that the Demolition is completed within the Demolition Period.

SECTION 35. HOLD OVER

35.1 Hold Over.

Any holding over by Tenant after the expiration or termination of this Lease shall not constitute a renewal hereof or give Tenant any rights hereunder or in the Premises, except with the written consent of Landlord. In any such event, at Landlord's option, Tenant shall be (a) a tenant at sufferance, or (b) a month-to-month tenant at a Minimum Rent of one hundred and ten percent (110%) of the Minimum Rent in effect at the expiration of the Term.

SECTION 36. ACCESS RIGHTS OVER SOUTH BEACH PARK

36.1 Access.

For the Term of this Lease, Landlord hereby grants the Access Rights to Tenant, and consents to the grant of similar rights by Redevelopment Agency in or pursuant to the OPA, including the right of access, ingress and egress over and across the Park Access Parcel, for pedestrian and vehicular access to the Premises. Landlord reserves the right to use, or permit others to use, the Park Access Parcel in common with Tenant, provided such use does not interfere with Tenant's use hereunder. Tenant shall have the right to construct roadways, sidewalks and other improvements on or to the Park Access Parcel, either as part of the Initial

Improvements under the DDA or as Subsequent Construction pursuant to Section 10. The dimensions of the Park Access Parcel may be adjusted with the approval of Landlord to accommodate design of the improvements on South Beach Park; provided, however, no such adjustment shall materially interfere with Tenant's Access Rights under this Lease nor with the use by Landlord or the Redevelopment Agency of South Beach Park, including, without limitation, the provision of parking for tenants of the marina. Tenant shall be responsible for a portion of the cost of maintaining, repairing, replacing and restoring the improvements located on the Park Access Parcel, as further provided in the OPA or in a separate written agreement approved by Landlord or to which it is a party. During the Term of the Redevelopment Agency's lease of South Beach Park from Landlord, the maintenance, repair, replacement and restoration of the improvements on the Park Access Parcel shall be governed by the OPA. In the event such lease expires or terminates before the Term of this Lease, any maintenance, repair, replacement or restoration of the improvements located on the Park Access Parcel shall be performed by Landlord and the costs of such activities shall be borne equally by Landlord and Tenant.

SECTION 37. FERRY LANDING FACILITIES

37.1 Ferry Landing Facilities.

Landlord and Tenant shall cooperate in good faith in planning the development of ferry service to the Premises for Baseball Home Games and for year-round use, consistent with regional ferry service plans and studies, and as further provided in the Mitigation Measures. The Parties intend that the Ferry Landing Facilities be completed as soon as feasible after Completion of the Initial Improvements.

SECTION 38. NON-RELOCATION AGREEMENT

38.1 Covenant to Perform Under Baseball Sublease.

Tenant acknowledges and agrees that entry by the Team Owner into the Non-Relocation Agreement was a material condition of Landlord's entry into this Lease. Tenant covenants and agrees to perform all of its obligations under the Baseball Sublease as are necessary to keep the Non-Relocation Agreement in full force and effect for its full term.

SECTION 39. NOTICES

39.1 Notices.

All notices, demands, consents, and requests which may or are to be given by any Party to the other shall be in writing, except as otherwise provided herein. All notices, demands, consents and requests to be provided hereunder shall be deemed to have been properly given on the date of receipt if served personally on a day that is a business day (or on the next business day if served personally on a day that is not a business day), or, if mailed, on the date that is three

days after the date when deposited with the U.S. Postal Service for delivery by United States registered or certified mail, postage prepaid, in either case, addressed as follows:

To Landlord:	San Francisco Port Commission (Reference: Ballpark) 3100 Ferry Building San Francisco, CA 94111 Attention: Executive Director Facsimile: (415) 274-0412
with a copy to:	Mayor (Reference: China Basin Ballpark) City and County of San Francisco City Hall San Francisco, CA 94102 Facsimile: (415) 554-6160
and to:	City Attorney (Reference: China Basin Ballpark) Fox Plaza 1390 Market Street, 5th Floor San Francisco, CA 94102-5408 Facsimile: (415) 554-4248
and to:	Port General Counsel (Reference: China Basin Ballpark) 3100 Ferry Building San Francisco, CA 94111 Facsimile: (415) 274-0494
To Tenant:	China Basin Ballpark Company LLC 3Com Park at Candlestick Point San Francisco, CA 94124 Attention: President Facsimile: (415) 330-2697
with a copy to:	China Basin Ballpark Company LLC 3Com Park at Candlestick Point San Francisco, CA 94124 Attention: General Counsel Facsimile: (415) 330-2697

and to Coblentz, Cahen, McCabe & Breyer
(Reference: China Basin Ballpark Company)
222 Kearny Street, Suite 700
San Francisco, CA 94108
Facsimile: (415) 989-1663

or at such other place or places in the United States as each such Party may from time to time designate by written notice to the other in accordance with the provisions hereof. For convenience of the Parties, copies of notices may also be given by telefacsimile to the facsimile number set forth above or such other number as may be provided from time to time by notice given in the manner required hereunder; however, neither Party may give official or binding notice by telefacsimile.

39.2 Form and Effect of Notice.

Every notice given to a Party or other Person under this Section must state (or shall be accompanied by a cover letter that states):

(a) the Section of this Lease pursuant to which the notice is given and the action or response required, if any;

(b) if applicable, the period of time within which the recipient of the notice must respond thereto; and

(c) if applicable, that the failure to object to the notice within a stated time period will be deemed to be the equivalent of the recipient's approval of or consent to the subject matter of the notice.

In no event shall a recipient's approval of or consent to the subject matter of a notice be deemed to have been given by its failure to object thereto if such notice (or the accompanying cover letter) does not comply with the requirements of this Section 39.2.

SECTION 40. INSPECTION OF PREMISES BY LANDLORD

40.1 Entry.

Subject to the rights of Subtenants, Tenant shall permit Landlord and its Agents to enter the Premises during regular business hours upon reasonable prior notice (and at any time in the event of an emergency which poses an imminent danger to public health or safety) for the purpose of (i) inspecting the same for compliance with any of the provisions of this Lease, (ii) performing any work therein that Landlord may have a right to perform under Section 21, or (iii) inspecting, sampling, testing and monitoring the Premises or the Improvements or any portion thereof, including buildings, grounds and subsurface areas, as Landlord reasonably

deems necessary or appropriate for evaluation of Hazardous Materials or other environmental conditions. Nothing herein shall imply any duty upon the part of Landlord to perform any work which under any provision of this Lease Tenant may be required to perform, nor to place upon Landlord any obligation, or liability, for the care, supervision or repair of the Premises. If Landlord elects to perform work on the Premises pursuant to Section 21, Landlord shall not be liable for inconvenience, loss of business or other damage to Tenant by reason of the performance of such work on the Premises, or on account of bringing necessary materials, supplies and equipment into or through the Premises during the course thereof, provided Landlord uses reasonable diligence to minimize the interference any such work may cause with the activities of Tenant, its Subtenants, and their respective Invitees.

40.2 Exhibit for Lease; Evaluation for Demolition.

Subject to the rights of Subtenants, Tenant shall permit Landlord and its Agents to enter the Premises during regular business hours upon reasonable prior notice (i) to exhibit the same in a reasonable manner in connection with any sale, transfer or other conveyance of Landlord's interest in the Premises, and (ii) during the last twelve (12) months of the Term, for the purpose of (A) leasing the Premises, or (B) evaluating the potential Demolition of all or a portion of the Improvements.

40.3 Notice, Right to Accompany.

Landlord agrees to give Tenant reasonable prior notice of Landlord's entering on the Premises except in an emergency. Such notice shall be not less than forty-eight (48) hours oral notice. Tenant shall have the right to have a representative of Tenant accompany Landlord or its Agents on any entry into the Premises.

40.4 Rights of Subtenants.

Tenant agrees to use commercially reasonable efforts (including efforts to obtain the agreement of each Subtenant to the inclusion of a provision similar to this Section 40 in its Sublease) to require each Subtenant to permit Landlord to enter its premises for the purposes specified in this Section 40. Landlord recognizes, however, that particular Subtenants may require longer notice periods, or may require that Landlord or its Agents be accompanied by a representative of Tenant or the Subtenant in question, or may forbid entry into areas containing vaults, safes, automatic teller machines and similar secured areas.

SECTION 41. NO JOINT VENTURE

41.1 No Joint Venture.

Nothing contained in this Lease shall be deemed or construed as creating a partnership or joint venture between Landlord and Tenant or between Landlord and any other

Person, or cause Landlord to be responsible in any way for the debts or obligations of Tenant. The subject of this Lease is a lease with neither Party acting as the agent of the other Party in any respect except as may be provided for in this Lease.

SECTION 42. MORTGAGE OF LEASEHOLD

42.1. No Mortgage Except as Set Forth Herein.

(a) Restrictions on Financing. Except as permitted in this Section 42, Tenant shall not:

(i) engage in any financing or other transaction creating any mortgage, deed of trust or similar security instrument upon Tenant's Leasehold Estate in the Premises or Tenant's interest in the Improvements under this Lease; or

(ii) place or suffer to be placed upon Tenant's Leasehold Estate in the Premises or interest in the Improvements hereunder any lien or other encumbrances other than as permitted by Section 14.1.

(b) No Subordination of Fee Interest or Rent. Under no circumstance shall any lien or encumbrance placed by Tenant on its Leasehold Estate attach to Landlord's fee interest in the Premises. Landlord shall not be required to subordinate its interest in the Premises nor its right to receive Rent hereunder to any Mortgagee of Tenant.

(c) Violation of Covenant. Any mortgage, deed of trust, encumbrance or lien not permitted by this Section 42 shall be deemed to be a violation of this covenant on the date of its execution or filing of record regardless of whether or when it is foreclosed or otherwise enforced.

42.2. Leasehold Liens.

(a) Tenant's Right to Mortgage Leasehold. At any time, and from time to time during the Term, Tenant shall have the right to assign, mortgage or encumber the Leasehold Estate by way of leasehold mortgages, deeds of trust or other security instruments of any kind to the extent permitted hereby; provided, however, notwithstanding any foreclosure thereof, Tenant shall remain liable for the payment of Rent, including any and all Additional Rent, to the extent provided in this Lease, and for the performance of all other obligations contained in this Lease.

(b) Application to DDA. In the event that Tenant shall mortgage, encumber, create a security interest in, or otherwise place or permit a lien to be placed upon Tenant's interest in the DDA as permitted thereunder, all of the provisions set forth in this Lease relating to Mortgagees shall also apply to the mortgagee of Tenant's interest in the DDA, and

such mortgagee shall be entitled to all of the rights, privileges and protections set forth in this Lease, as if such provisions were included in the DDA.

(c) Leasehold Mortgages Subject to this Lease. With the exception of the rights granted to Mortgagees in this Lease, the execution and delivery of a Mortgage shall not give or be deemed to give a Mortgagee any greater rights than those granted to Tenant hereunder.

(d) Limitation on Number of Mortgagees. Notwithstanding anything to the contrary set forth in this Lease, any rights given to Mortgagees under this Section 42 shall not apply to more than three (3) Mortgagees at any time. Tenant shall notify Landlord in writing of the three (3) Mortgagees to which such rights apply, if there are ever more than three. If Tenant fails to give such notice, however, Tenant shall not be in default under this Lease, but in such case only the three (3) Mortgagees having the most senior lien priority shall be entitled to exercise the rights given to Mortgagees under this Section 42.

42.3. Notice of Liens.

Tenant shall notify Landlord promptly of any lien or encumbrance of which Tenant has knowledge and which has been recorded against or attached to the Improvements or Tenant's Leasehold Estate hereunder, other than Permitted Title Exceptions.

42.4. Purpose of Mortgage.

(a) Before Completion. From the date hereof until the date of Completion of construction of the Initial Improvements, a Mortgage shall be made only for the purposes of (i) financing costs relating to the development of the Project, including, but not limited to, costs relating to acquisition of Tenant's Leasehold Estate, or the design, construction, development or entitlement of the Initial Improvements in accordance with the DDA (including without limitation development period interest, property taxes, rent and any other item contained in the Budget, as defined in the DDA), or of obtaining such Mortgage and the loan secured by such Mortgage (including fees and charges paid to Mortgagee, title, survey and closing costs, costs incurred to satisfy conditions to the issuance of the debt secured by the Mortgage, and attorneys' fees incurred in connection with the negotiation and documentation of the Mortgage and any related documents or instruments), or (ii) to acquire and install the Personal Property and supplies, or (iii) to refinance any financing incurred for any of the foregoing purposes.

(b) After Completion. From the date of Completion of construction of the Initial Improvements and thereafter throughout the Term hereof, a Mortgage can be made for any purpose.

(c) Statement. Landlord agrees within thirty (30) days after request by Tenant to give to any holder or proposed holder of a leasehold mortgage, deed of trust, sale-leaseback or other security instrument a statement in recordable form as to whether such

mortgage, deed of trust, sale-leaseback or other security instrument is permitted hereunder to secure all of the advances and indebtedness stated by the terms of the applicable financing documents. Except as set forth in such statement, such a statement shall estop Landlord from asserting that such mortgage, deed of trust, sale-leaseback or other security instrument (if done in the way described in the statement) is not permitted hereunder, but shall create no liability on Landlord. In making a request for such statement, Tenant shall furnish Landlord copies of such of the financing documents as are required reasonably by Landlord to permit Landlord to make the determination whether such security instrument is permitted hereby. In no event, however, shall any failure by Tenant to request such a statement or to comply with the terms of any Mortgage, including without limitation the use of any proceeds of any debt, the repayment of which secured by a Mortgage, be deemed to invalidate the lien of a Mortgage.

42.5. Maximum Amount of Loan Prior to Completion.

Until the Completion of construction of the Initial Improvements, the total amount secured by all Mortgages on the Premises shall not exceed the sum of (i) the Budget (as defined in the DDA) for development of the Project, plus (ii) any amounts funded by a Mortgagee (whether or not specified in the Budget, but without duplication of any amount) to pay for items described in Section 42.4(a); plus (iii) any cost overruns funded by a Mortgagee, plus (iv) any costs of enforcement of the Mortgage, including, without limitation, attorneys' fees, plus (v) costs incurred by the Mortgagee in curing any default hereunder or under the Mortgage, plus (vi) interest accruing on the foregoing. Following the Completion of construction of the Initial Improvements, there shall be no limitation on the amount of any Mortgage or Mortgages.

42.6. Interest Covered by Mortgage.

A Mortgage may attach to any of the following interests in the Premises: (i) Tenant's Leasehold Estate in the Premises created hereby, and Tenant's interest in the Improvements or any portion thereof, (ii) Tenant's interest in Subleases, including the right to receive rents and other income due from Subtenants; (iii) Tenant's interest in the Access Rights created or recognized hereunder; (iv) any Personal Property of Tenant, (v) Tenant's interest under the DDA, (vi) products and proceeds of the foregoing, and (vii) any other property rights and interests of Tenant arising under this Lease, including any real property interests of Tenant appurtenant or related to Tenant's interest in or use of the foregoing interests. No Mortgage may encumber Landlord's interest in or under this Lease or Landlord's fee simple interest in the Property.

42.7. Insurance and Condemnation Proceeds.

A Mortgage shall contain provisions permitting insurance proceeds and Awards under any Condemnation to be used for Restoration in the manner provided in this Lease. In the event of a casualty or Condemnation after which Tenant is obligated to Restore, Landlord consents to the Mortgagee (and if there is more than one Mortgagee, in order of priority) holding

the insurance proceeds or Award, and disbursing the same in accordance with this Lease and, where consistent with this Lease, in accordance with the Mortgage.

42.8. Institutional Lender; Other Permitted Mortgagees.

A First Mortgage may be given only to (i) a Bona Fide Institutional Lender, or (ii) another lender which has been approved by Landlord (such approval not to be unreasonably withheld, delayed or conditioned). In any instances in which Landlord's consent is so required, Landlord shall be deemed to have approved such other lender if the written notice from Tenant of the identity of such other lender specifies that no notification of disapproval within thirty (30) days after the receipt of such written notice constitutes approval, and Landlord sends no notification of disapproval within such period. Mortgages which are junior in lien priority to a First Mortgage are permitted at any time.

42.9. Rights Subject to Lease.

(a) Subject to Lease. Except as provided in this Lease or in the DDA or as otherwise specifically waived by Landlord in writing, all rights acquired by a Mortgagee under any Mortgage shall be subject to each and all of the covenants, conditions and restrictions set forth in this Lease and, prior to Completion of construction of the Initial Improvements, in the DDA. None of such covenants, conditions and restrictions shall be deemed waived by Landlord by reason of the giving of such Mortgage, except as provided in this Lease or otherwise specifically waived by Landlord in writing.

(b) Construction and Restoration Obligations. Notwithstanding any provision of this Lease or the DDA to the contrary, including, but not limited to, any such covenants which run with the land, no Mortgagee, including any Mortgagee who obtains title to the Leasehold Estate or any part thereof or interest therein as a result of foreclosure proceedings or action in lieu thereof, but excluding (i) any Person (other than an Affiliate of a Mortgagee) who thereafter obtains title to the Leasehold Estate or any part thereof from or through such Mortgagee, or (ii) any other purchaser at a foreclosure sale (other than the Mortgagee itself or an Affiliate of the Mortgagee) (either, a "Foreclosure Purchaser"), shall be obligated by the provisions of this Lease or the DDA to (y) construct or complete the Improvements or guarantee such construction or completion, subject to Section 42.12(c), or (z) Restore any damage or destruction to such Improvements (whether occurring on, before or after the date Mortgagee obtains title to the Leasehold Estate) except to the extent that the cost of such Restoration can be paid from the net insurance proceeds received by the Mortgagee on account of such damage or destruction (plus the amount of the applicable policy deductible, except in the case of earthquake and flood insurance policies) and provided that Mortgagee takes reasonable measures to prevent or cure any health or safety hazards on the Premises; provided, however, that nothing in this Section or any other Section or provisions of this Lease shall be deemed or construed to permit or authorize any such holder to devote the Premises or any part thereof to any uses, or to

construct any improvements thereon, other than those uses or Improvements provided or authorized herein or in the DDA, as hereafter amended or extended from time to time.

42.10. Required Provisions of any Mortgage.

Tenant agrees with respect to each Mortgage, either to record a request under California Civil Code Section 2924b that notice of default and of sale under such Mortgage be sent to Landlord, or to have such Mortgage provide:

(a) that the Mortgagee shall by registered or certified mail give written notice to Landlord of the occurrence of any event of default under the Mortgage; and

(b) that Landlord shall be given notice at the time any Mortgagee initiates any foreclosure action.

42.11. Notices to Mortgagee.

(a) Copies of Notices. Landlord shall give a copy of each notice Landlord gives to Tenant from time to time of (i) any default under this Lease, (ii) the occurrence of an Event of Default, or (iii) Landlord's consent to a Transfer or Significant Change, to each Mortgagee who has given to Landlord a written notice substantially in the form provided in Section 42.11(b). Copies of notices shall be given to Mortgagees at the same time as notices are given by Landlord to Tenant, addressed to each such Mortgagee at the address last furnished to Landlord. Landlord shall acknowledge in writing its receipt of the name and address of a Mortgagee delivered to Landlord under Section 42.11(b). Landlord's failure to give notice to a Mortgagee as required by this Section 42.11 shall not be deemed to constitute a default on the part of Landlord under this Lease, but no such notice shall be deemed to have been validly given to Tenant unless and until a copy thereof shall have been so given to Mortgagee. Any such notices to Mortgagee shall be given in the same manner as provided in Section 39.1. In the case of a notice of default, such notice shall describe with reasonable particularity all the defaults claimed in such notice.

(b) Notice From Mortgagee to Landlord. The Mortgagee under any Mortgage shall be entitled to receive notices from time to time given to Tenant by Landlord under this Lease in accordance with Subsection (a) above provided such Mortgagee shall have delivered a notice to Landlord in substantially the following form:

> "The undersigned does hereby certify that it is a Mortgagee, as such term is defined in that certain Lease entered into by and between the City and County of San Francisco, acting through the San Francisco Port Commission, as Landlord, and China Basin Ballpark Company, as Tenant (the "Lease"), of Tenant's interest in the Lease demising the parcels, a legal description of which is

attached hereto as Exhibit A and made a part hereof by this reference. The undersigned hereby requests that copies of any and all notices from time to time given under the Lease to Tenant by Landlord be sent to the undersigned at the following address: _____."

42.12. Mortgagee's Right to Cure.

If Tenant, or Tenant's successors or assigns, shall mortgage this Lease in compliance with the provisions of this Section, then, so long as any such Mortgage shall remain unsatisfied of record, the following provisions shall apply:

(a) Cure Periods. In the case of any notice of default given by Landlord to Tenant and Mortgagee in accordance with Section 42.11, the Mortgagee shall have the same concurrent cure periods as are given Tenant under this Lease for remedying a default or causing it to be remedied, plus, in each case, an additional period of thirty (30) days after the later to occur of (i) the expiration of such cure period, or (ii) the date that Landlord has served such notice of default upon Mortgagee, and Landlord shall accept such performance by or at the instance of the Mortgagee as if the same had been made by Tenant; provided, however, if such default cannot reasonably be cured or remedied by Mortgagee within such additional thirty (30) day period, such cure period shall be extended (and no Event of Default shall be deemed to have occurred under this Lease by reason of such default) so long as the Mortgagee commences the cure or remedy within such period, and prosecutes the completion thereof with diligence and dispatch, subject to Force Majeure and delays caused by bankruptcy or insolvency proceedings. In addition, the Mortgagee shall have the right to extend the additional thirty (30) day period for curing or commencing cure of a default by Tenant, as specified above, by an additional sixty (60) days (so as to equal an additional ninety (90) day period after the later of the events specified in clauses (i) or (ii) above), by paying during such additional sixty day (60) period the Minimum Rent when due under this Lease and any sums owing by Tenant under the OPA to pay any shortfall in tax increment revenue from the Premises needed to pay debt service in full on the Tax Allocation Bonds.

(b) Foreclosure. Anything herein contained to the contrary notwithstanding, upon the occurrence of an Event of Default, other than an Event of Default due to a default in the payment of money, Landlord shall take no action to effect a termination of this Lease if, within thirty (30) days after notice of such Event of Default is given to each Mortgagee (or, if such Mortgagee elects to extend such period to ninety (90) days under subsection (a) above, if within such ninety (90) day period), a Mortgagee shall have (x) obtained possession of the Premises (including possession by a receiver), or (y) notified Landlord of its intention to institute foreclosure proceedings or otherwise acquire Tenant's interest under this Lease, and thereafter promptly commences and prosecutes such proceedings with diligence and dispatch (subject to Force Majeure and delays caused by bankruptcy or insolvency proceedings). Upon obtaining possession or acquiring Tenant's interest under this Lease, a Mortgagee or Foreclosure

Purchaser shall be required promptly to cure any monetary defaults and any other defaults then reasonably susceptible of being cured by such Mortgagee. The foregoing provisions of this Subsection (b) are subject to the following: (i) no Mortgagee shall be obligated to continue possession or to continue foreclosure proceedings after the defaults or Events of Default hereunder referred to shall have been cured; and (ii) nothing herein contained shall preclude Landlord, subject to the provisions of this Section 42, from exercising any rights or remedies under this Lease (other than a termination of this Lease to the extent otherwise permitted hereunder) with respect to any other Event of Default by Tenant during the pendency of such foreclosure proceedings. Notwithstanding anything to the contrary, Mortgagee shall have the right at any time to notify Landlord that it has relinquished possession of the Premises or that it will not institute foreclosure proceedings or, if such foreclosure proceedings have commenced, that it has discontinued them, and, in such event, Landlord shall be entitled to seek the termination of this Lease as otherwise herein provided. Upon any such termination, the provisions of Section 42.12(d) shall apply.

(c) Construction.

(i) If the default of Tenant occurs prior to Completion of construction of the Initial Improvements, nothing contained in this Section 42.12 or in any other Section or provision of this Lease or the DDA shall be deemed to require Mortgagee or a Foreclosure Purchaser, either before or after foreclosure or action in lieu thereof, to undertake or continue the construction or completion of the Improvements, or to permit or authorize Mortgagee (or such Foreclosure Purchaser) to do so (except to the extent necessary to preserve or protect the Improvements or construction already made), unless Mortgagee (or such Foreclosure Purchaser), at its option and without obligation to do so, has agreed, by written agreement reasonably satisfactory to Landlord, to assume Tenant's obligation to complete, in the manner provided in this Lease (subject to subsection (c)(ii) hereof) and the DDA, the Improvements on the Premises, or the part thereof to which the lien or title of such Mortgagee (or Foreclosure Purchaser) relates, and has submitted evidence satisfactory to Landlord that it has the qualifications and financial responsibility necessary to perform such obligation.

(ii) Upon assuming Tenant's obligations to complete the Initial Improvements in accordance with Subsection (c)(i) above, the Mortgagee shall be required only to exercise due diligence in completion of the construction of the Initial Improvements but shall not be required to complete construction of the Initial Improvements within the dates set forth in the Schedule of Performance annexed to the DDA.

(iii) Any Foreclosure Purchaser shall be obligated to complete the Initial Improvements and exercise due diligence in the completion of the construction thereof, but shall not be required to complete construction of the Initial Improvements within the dates set forth in the Schedule of Performance annexed to the DDA.

(iv) Any assuming Mortgagee or Foreclosure Purchaser properly completing such Improvements shall be entitled, upon written request made to Landlord, to a Certificate of Completion (as defined in the DDA) from Landlord with respect to such Initial Improvements to the same extent and in the same manner as Tenant would have been entitled had Tenant not defaulted.

(d) New Lease. In the event of the termination of this Lease (including, but not limited to, a termination due to the rejection of this Lease in a bankruptcy proceeding in which Tenant is the debtor) before the expiration of the Term, except (i) by Condemnation, or (ii) as the result of damage or destruction as provided in Section 12, Landlord shall serve upon the Mortgagee written notice that this Lease has been terminated, together with a statement of any and all sums which would at that time be due under this Lease but for such termination, and of all other defaults, if any, under this Lease then known to Landlord. The Mortgagee shall thereupon have the option to obtain a new Lease (a "New Lease") in accordance with and upon the following terms and conditions:

(i) Upon the written request of the Mortgagee, within sixty (60) days after service of such notice that this Lease has been terminated, Landlord shall enter into a New Lease of the Premises with the most senior Mortgagee giving notice within such period or its designee, provided that if the Baseball Sublease remains in effect, the Mortgagee or its designee (which shall be an Affiliate of Mortgagee) assumes the obligations of Tenant as landlord under the Baseball Sublease arising from and after the date of such assumption; and

(ii) Such New Lease shall be entered into at the reasonable cost of the Mortgagee, shall be effective as of the date of termination of this Lease, and shall be for the remainder of the Term of this Lease and at the Rent and upon all the agreements, terms, covenants and conditions hereof, including any applicable Options to extend the term, and in substantially the same form as this Lease. The Parties intend that such New Lease shall have the same priority as this Lease, including priority over any mortgage or other lien, charge or encumbrance on the title to the Premises. Such New Lease shall require the Mortgagee to perform any unfulfilled obligation of Tenant under this Lease which is reasonably susceptible of being performed by such Mortgagee other than obligations of Tenant with respect to construction of the Initial Improvements, which obligations shall be performed by Mortgagee in accordance with Section 42.12(c). Upon the execution of such New Lease, the Mortgagee shall pay any and all sums which would at the time of the execution thereof be due under this Lease but for such termination, and shall pay all expenses, including reasonable Attorneys' Fees and Costs incurred by Landlord in connection with such defaults and termination, the recovery of possession of the Premises, and the preparation, execution and delivery of such New Lease.

(e) Nominee. Any rights of a Mortgagee under this Section 42.12, may be exercised by or through its nominee or designee (other than Tenant) which is an Affiliate of Mortgagee; provided, however, that such nominee or designee is not a Person otherwise not permitted to become Tenant hereunder; and provided, further that a Mortgagee may in any event

acquire title to this Lease through a wholly owned (directly or indirectly) subsidiary of Mortgagee.

(f) Subleases. Effective upon the commencement of the term of any New Lease executed pursuant to Subsection 42.12(d), all Subleases then in effect shall be assigned and transferred without recourse by Landlord to Mortgagee and all monies on deposit with Landlord which Tenant would have been entitled to use but for the termination or expiration of this Lease may be used by Mortgagee for the purposes of and in accordance with the provisions of such New Lease. Between the date of termination of this Lease and commencement of the term of the New Lease, Landlord shall not (1) enter into any new Subleases, management agreements or agreements for the maintenance of the Premises or the supplies therefor which would be binding upon Mortgagee if Mortgagee enters into a New Lease, (2) cancel or materially modify any of the existing Subleases, management agreements or agreements for the maintenance of the Premises or the supplies therefor, or (3) accept any cancellation, termination or surrender thereof without the written consent of Mortgagee, which consent shall not be unreasonably withheld or delayed. Effective upon the commencement of the term of the New Lease, Landlord shall also transfer to Mortgagee, its designee or nominee (other than Tenant), without recourse, all Personal Property.

(g) Limited to Permitted Mortgagees. Anything herein contained to the contrary notwithstanding, the provisions of this Section shall inure only to the benefit of the holders of the Mortgages which are permitted hereunder.

(h) No Merger. No union of the interests of Landlord and Tenant herein shall result in a merger of this Lease in the fee interest, so long as any Mortgage permitted hereunder shall be unsatisfied.

(i) Limitation on Liability of Mortgagee. Anything herein contained to the contrary notwithstanding, no Mortgagee, or its designee or nominee, shall become liable under the provisions of this Lease or the DDA unless and until such time as it becomes, and then only for so long as it remains, the owner of the Leasehold Estate.

(j) Limitation on Obligation to Cure. Anything herein contained to the contrary notwithstanding, a Mortgagee, or its Affiliated designee or nominee (other than Tenant), (i) shall have no obligation to cure (A) any non-monetary Event of Default by Tenant under this Lease occurring pursuant to Section 22.1 (c), (d), (e), or (f), or (B) any other non-monetary Event of Default by Tenant under this Lease or the DDA which is not reasonably susceptible of being cured by such Mortgagee, and (ii) if it acquires the Leasehold Estate or obtains a New Lease, shall not be required to Restore the Improvements following damage or destruction, except to the extent that the cost of Restoration can be paid from the net insurance proceeds received by Mortgagee (or such Affiliate) by reason of such damage. All of the defaults listed in clause (i)(A) hereof shall be deemed defaults not "reasonably susceptible of

being complied with" or "not reasonably susceptible of being cured" for purposes of Sections 42.12(b) and (c).

(k) Use. After any transfer of the Leasehold Estate pursuant to, or in lieu of, foreclosure of a Mortgage, the Premises may be closed or may, subject to the Tidelands Trust and any other applicable Laws, be operated by the Mortgagee or Foreclosure Purchaser, or its successor, for any lawful use. In particular, the provisions of Section 3 of this Lease (including, but not limited to, all applicable Mitigation Measures and Improvement Measures) shall apply to use of the Premises by a Mortgagee or Foreclosure Purchaser for so long as the Ballpark continues to exist (including any period during which the Ballpark is being Restored).

42.13. Assignment by Mortgagee.

If a Mortgagee shall acquire Tenant's interest in this Lease as a result of a sale under said Mortgage pursuant to a power of sale contained therein, pursuant to a judgment of foreclosure, through any transfer in lieu of foreclosure, or through settlement of or arising out of any pending or contemplated foreclosure, bankruptcy or insolvency action, or in the event a Mortgagee becomes Tenant under this Lease or any New Lease obtained pursuant to Section 42.12(d), such Mortgagee's right thereafter to assign or transfer this Lease or such New Lease shall be subject to the restrictions of Section 16, other than Section 16.1(f). In the event such Mortgagee subsequently assigns or transfers its interest under this Lease after acquiring the same by foreclosure or deed in lieu of foreclosure or subsequently assigns or transfers its interest under any New Lease obtained pursuant to Section 42.12(d), and in connection with any such assignment or transfer, Mortgagee takes back a mortgage or deed of trust encumbering such leasehold interest to secure a portion of the purchase price given to Mortgagee for such assignment of transfer, then such mortgage or deed of trust shall be considered a Mortgage, and Mortgagee shall be entitled to receive the benefit and enforce the provisions of this Section 42 and any other provisions of this Lease intended for the benefit of the holder of a Mortgage.

42.14 Modification of Lease.

Landlord will not (A) accept any surrender or termination of this Lease, (B) agree to the cancellation or enter into any modification of this Lease or the DDA, or (C) permit the Demolition of any Improvements (except for Safety Repairs or in connection with Restoration), without the prior written consent thereto of each Mortgagee, except that this provision shall not limit the rights of Landlord for an Event of Default on the part of Tenant, subject to the rights of a Mortgagee under this Lease. Without limiting the generality of the foregoing, no termination of this Lease under Section 365(h) of the United States Bankruptcy Code, as amended, with respect to a bankruptcy by Landlord shall be effective against any Mortgagee without the prior written consent of such Mortgagee.

42.15 Exercise of Option to Extend.

If Tenant does not for any reason exercise within the time permitted in this Lease any right or option to extend or to renew this Lease for any extension or renewal term provided in this Lease, Landlord shall give written notice of such failure to each Mortgagee, and any Mortgagee shall have the right, for a period of sixty (60) days after receipt of such notice, to elect, by notice given in the manner specified in this Lease for the exercise of such right or option, to exercise such right or option upon the same terms and conditions and with the same effect as though such right or option had been validly exercised by Tenant.

42.16 Transfer of Mortgage.

Landlord hereby consents to transfer or encumbrance by any Mortgagee, absolutely or as collateral security for performance of obligations, of any Mortgage or any interest therein, provided, in the case of a First Mortgage, such transfer is to a Bona Fide Institutional Lender (or other lender approved by Landlord, such approval to be governed by the provisions of Section 42.8), and in the event of any such transaction the new holder or pledgee of the Mortgage shall have all the rights of its predecessor Mortgagee hereunder until such time as the Mortgage is further transferred or released from the Leasehold Estate.

42.17 Appointment of Receiver.

In the case of any default under any Mortgage, the holder of the Mortgage shall be entitled to have a receiver appointed, irrespective of whether such Mortgagee accelerates the maturity of all indebtedness secured by its Mortgage, and to enter or have its receiver enter and take possession of the Premises, and manage and operate the same.

42.18 Subordination of Liens.

Landlord hereby subordinates to the lien of any Mortgage any lien covering any personal property of Tenant which Landlord may have for unpaid rentals under contract or at law or equity.

42.19 Conflicts.

In the event of any conflict between the provisions of this Section 42 and the other provisions of the Lease, the provisions of this Section 42 shall govern and control.

SECTION 43. ECONOMIC ACCESS

43.1 Program in Diversity.

Tenant is committed to affording opportunities for minority-owned enterprises, women-owned enterprises, and San Francisco residents, to participate in the operation and use of the Project. In furtherance thereof, Tenant agrees to implement the attached Program in Diversity attached as Exhibit I (the "Program in Diversity").

43.2 Job Training.

Tenant agrees to design and implement the welfare to work and youth employment programs as described in the Program in Diversity.

SECTION 44. REPRESENTATIONS AND WARRANTIES

44.1 Representations and Warranties of Tenant.

Tenant represents, warrants and covenants to Landlord as follows, as of the date hereof and as of the Commencement Date:

(a) Valid Existence; Good Standing. Tenant is a limited liability company duly organized and validly existing under the laws of the State of Delaware. Tenant has the requisite power and authority to own its property and conduct its business as presently conducted. Tenant is in good standing in the State of Delaware and the State of California.

(b) Authority. Tenant has the requisite power and authority to execute and deliver this Lease and the agreements contemplated hereby and to carry out and perform all of the terms and covenants of this Lease and the agreements contemplated hereby to be performed by Tenant.

(c) No Limitation on Ability to Perform. Neither Tenant's articles of organization or operating agreement, nor any applicable Law, prohibits Tenant's entry into this Lease or its performance hereunder. No consent, authorization or approval of, and no notice to or filing with, any governmental authority, regulatory body or other Person is required for the due execution and delivery of this Lease by Tenant and Tenant's performance hereunder, except for consents, authorizations and approvals which have already been obtained, notices which have already been given and filings which have already been made. Except as may otherwise have been disclosed to Landlord in writing, there are no undischarged judgments pending against Tenant, and Tenant has not received notice of the filing of any pending suit or proceedings against Tenant before any court, governmental agency, or arbitrator, which might materially adversely affect the enforceability of this Lease or the business, operations, assets or condition of Tenant.

(d) Valid Execution. The execution and delivery of this Lease and the performance by Tenant hereunder have been duly and validly authorized. When executed and delivered by Landlord and Tenant, this Lease will be a legal, valid and binding obligation of Tenant.

(e) Defaults. The execution, delivery and performance of this Lease (i) do not and will not violate or result in a violation of, contravene or conflict with, or constitute a default by Tenant under (A) any agreement, document or instrument to which Tenant is a party or by which Tenant is bound, (B) any law, statute, ordinance, or regulation applicable to Tenant or its business, (C) Baseball Rules and Regulations, or (D) the articles of organization or the operating agreement of Tenant, and (ii) do not result in the creation or imposition of any lien or other encumbrance upon the assets of Tenant, except as contemplated hereby.

(f) Financial Matters. Except to the extent disclosed to Landlord in writing, (i) Tenant is not in default under, and has not received notice asserting that it is in default under, any agreement for borrowed money, (ii) Tenant has not filed a petition for relief under any chapter of the U.S. Bankruptcy Code, and (iii) to Tenant's knowledge, no involuntary petition naming Tenant as debtor has been filed under any chapter of the U.S. Bankruptcy Code.

The representations and warranties herein shall survive any termination of this Lease to the extent specified in this Lease.

44.2 Representations and Warranties of Landlord.

Landlord represents, warrants and covenants to Tenant as follows, as of the date hereof and as of the Commencement Date:

(a) Valid Existence; Good Standing. Landlord is a Charter City and County organized under the Constitution and laws of the State of California. Landlord has the requisite power and authority to own and manage the Property subject to City's Charter and the Burton Act.

(b) Authority. Landlord has the requisite power and authority to execute and deliver this Lease and the agreements contemplated hereby and to carry out and perform all of the terms and covenants of this Lease and the agreements contemplated hereby to be performed by Landlord.

(c) No Limitation on Ability to Perform. Neither City's Charter nor the Burton Act or Burton Act Agreement or any applicable law prohibits Landlord's entry into this Lease or its performance hereunder. No consent, authorization or approval of, and no notice to or filing with, any other governmental authority or Person is required for the due execution and delivery of this Lease by Landlord, or for Landlord's performance under this Lease except

for consents, authorizations and approvals which have already been obtained and for filings and notices which have been given. Except as may otherwise have been disclosed to Tenant in writing, Landlord has not received notice of the filing of any pending suit or proceedings against Landlord or City before any court, governmental agency, or arbitrator which might materially adversely affect the enforceability of this Lease.

(d) Valid Execution. The execution and delivery of this Lease and the performance by Landlord hereunder have been duly and validly authorized. When executed and delivered by Landlord and Tenant, this Lease will be a legal, valid and binding obligation of Landlord.

(e) Defaults. The execution, delivery and performance of this Lease (i) do not and will not violate or result in a violation of, contravene or conflict with, or constitute a default by Landlord under (A) any agreement, document or instrument to which Landlord is a party or by which Landlord is bound, (B) any law, statute, ordinance, or regulation applicable to Landlord or the Property, (C) the City's Charter or the Burton Act or the Burton Act Agreement, and (ii) do not result in the creation or imposition of any lien or other encumbrance upon the Property, except as contemplated hereby.

(f) Title Matters. To the current actual knowledge of Landlord, the Property is not subject to any lien, encumbrance, or other matter affecting title thereto, except for the Permitted Title Exceptions. For purposes of this paragraph, the current actual knowledge of Landlord shall be limited to matters actually known , without any investigation having been performed, by the employee of the Port who is certified by the Port's Executive Director to be the person most likely, in the course of his or her official duties, to have actual knowledge of the existence of title defects affecting the Property, and by the City's Director of Property.

The representations and warranties herein shall survive any termination of this Lease to the extent specified in this Lease.

SECTION 45. SPECIAL PROVISIONS

45.1 Non-Discrimination.

(a) Covenant Not to Discriminate. In the performance of this Lease, Tenant covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of, any City employee working with, or applicant for employment with Tenant, in any of Tenant's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Tenant.

(b) Subleases and Other Subcontracts. Tenant shall include in all Subleases and other subcontracts relating to the Premises a non-discrimination clause applicable to such Subtenant or other subcontractor in substantially the form of subsection (a) above. In addition, Tenant shall incorporate by reference in all subleases and other subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all Subtenants and other subcontractors to comply with such provisions. Tenant's failure to comply with the obligations in this subsection shall constitute a material breach of this Lease.

(c) Non-Discrimination in Benefits. Tenant does not as of the date of this Lease and will not during the Term, in any of its operations in San Francisco or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

(d) Condition to Lease. As a condition to this Lease, Tenant shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" (Form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission.

(e) Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the lease of City property are incorporated in this Section by reference and made a part of this Lease as though fully set forth herein. Tenant shall comply fully with and be bound by all of the provisions that apply to this Lease under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Tenant understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of $50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Lease may be assessed against Tenant and/or deducted from any payments due Tenant.

45.2 Mitigation Measures; Improvement Measures.

(a) Mitigation Measures. In order to mitigate the significant environmental impacts of this Lease and operation of the Premises, Tenant agrees that the operation of the Project shall be in accordance with the Mitigation Measures attached to this Lease as Exhibit E, which are to be performed on the part of the project sponsor. As appropriate,

Tenant shall incorporate such Mitigation Measures into any contract for the operation of the Improvements.

(b) Improvement Measures. In addition to the Mitigation Measures, Tenant shall comply with all of the Improvement Measures contained in Exhibit F. The Parties understand and agree that such Improvement Measures are not part of the Mitigation Measures and shall not be deemed to be measures to mitigate any significant environmental impacts associated with the Project.

45.3 MacBride Principles - Northern Ireland.

The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1, et seq. The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Tenant acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

45.4 Tropical Hardwood Ban.

The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood or tropical hardwood product. Except as permitted by the application of Sections 12I.3.b and 12I.4.b of the San Francisco Administrative Code, Tenant shall not use any tropical hardwoods or tropical hardwood products in the construction of the Initial Improvements or any other Improvements on the Premises.

45.5 Tobacco Product Advertising Prohibition.

Tenant acknowledges and agrees that no advertising of cigarettes or tobacco products shall be allowed on the Premises. The foregoing prohibition shall include the placement of the name of a company producing, selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product or on any sign. The foregoing prohibition shall not apply to any advertisement sponsored by a state, local or nonprofit entity designed to communicate the health hazards of cigarettes and tobacco products or to encourage people not to smoke or to stop smoking.

45.6 Burma (Myanmar) Business Prohibition.

Tenant is not the government of Burma (Myanmar), a person or business entity organized under the laws of Burma (Myanmar) or a "prohibited person or entity" as defined in Section 12J.2(g) of the San Francisco Administrative Code. The City reserves the right to terminate this Lease for default if Tenant violates the terms of this clause. Chapter 12J of the San

Francisco Administrative Code is hereby incorporated by reference as though fully set forth herein, and the failure of Tenant to comply with any applicable requirements thereof shall be deemed a material breach of this Lease. In the event Tenant fails to comply in good faith with any of the applicable provisions of Chapter 12J of the San Francisco Administrative Code, Tenant shall be liable for liquidated damages for each violation in an amount equal to Tenant's net profit under this Lease, or 10% of the total amount of the Lease, or $1,000, whichever is greatest. Tenant acknowledges and agrees the liquidated damages assessed shall be payable to Landlord upon demand and may be set off against any moneys due to Tenant from Landlord under this Lease.

45.7 Proximity of Waterfront Transportation Project.

Tenant acknowledges that during the Term, the Waterfront Transportation Project involving (by way of example only and not of limitation) the realignment of the Embarcadero Roadway, Mid-Embarcadero freeway replacement, construction of a MUNI-metro turnaround project, MUNI-metro extension, F-line historic streetcar line, and a waterfront promenade, is scheduled to be constructed on property in the immediate vicinity of the Premises. Tenant is aware that the construction of such project and the activities associated with such construction will generate certain adverse impacts which may result in some inconvenience to or disturbance of Tenant. Such impacts may include, but are not limited to, increased vehicle and truck traffic, traffic delays and re-routing, loss of street and public parking, dust, dirt, construction noise and visual obstructions. Tenant hereby waives any and all claims against Landlord and the other Indemnified Parties arising out of such inconvenience or disturbance, including without limitation any abatement or reduction of Rent.

45.8 Waiver of Relocation Assistance Rights.

If Tenant holds over in possession of the Premises following the expiration of this Lease under Section 35.1, Tenant shall not be entitled, during the period of any such holdover, to rights, benefits or privileges under the California Relocation Assistance Law, California Government Code §§ 7260 et seq., or the Uniform Relocation Assistance and Real Property Acquisition Policies Act, 42 U.S.C. §§ 4601 et seq., or under any similar law, statute or ordinance now or hereafter in effect, except as provided in Section 13 relating to Condemnation, and Tenant hereby waives any entitlement to any such rights, benefits and privileges with respect to any such holdover period.

SECTION 46. GENERAL

46.1 Certification of Chief Financial Officer.

On or before April 1 of each year during the Term of this Lease, Tenant shall deliver to Landlord: (1) a certificate executed by a duly authorized officer of Tenant, certifying that (i) Tenant is in compliance with all of its financial and other material covenants under

agreements with its Mortgagee(s) (or if Tenant is not in compliance, stating the particulars of such non-compliance), and that (ii) all of its representations and warranties set forth in Section 44.1 of this Lease remain true and correct as of the date of such certificate (or if they are not, stating the particulars with respect thereto); and (2) a statement of opinion (unless Tenant, despite the exercise of reasonable diligence, cannot obtain such a statement) from an independent certified public accounting firm, subject to such qualifications as such firm in its professional judgment deems necessary, that as of the close of such fiscal year, Tenant is (or is not) in compliance with its financial covenants under its Mortgage(s) and all of its other loan agreements with its Mortgagee(s). In addition, from time to time during the Term, Landlord may request that Tenant provide the certificate described in clause (1) above. Tenant shall provide any such additional certificate within a reasonable time after such request, and in any event within ninety (90) days after such request.

46.2 Time of Performance.

(a) Expiration. All performance dates (including cure dates) expire at 5:00 p.m., San Francisco, California time, on the performance or cure date.

(b) Weekend or Holiday. A performance date which falls on a Saturday, Sunday or City holiday is deemed extended to the next working day.

(c) Days for Performance. All periods for performance or notices specified herein in terms of days shall be calendar days, and not business days, unless otherwise provided herein.

(d) Time of the Essence. Time is of the essence with respect to each provision of this Lease, including, but not limited, the provisions for the exercise of any option on the part of Tenant hereunder and the provisions for the payment of Rent and any other sums due hereunder, subject to the provisions of Section 20 relating to Force Majeure.

46.3 Interpretation of Agreement.

(a) Exhibits. Whenever an "Exhibit" is referenced, it means an attachment to this Lease unless otherwise specifically identified. All such Exhibits are incorporated herein by reference.

(b) Captions. Whenever a section, article or paragraph is referenced, it refers to this Lease unless otherwise specifically identified. The captions preceding the articles and sections of this Lease and in the table of contents have been inserted for convenience of reference only. Such captions shall define or limit the scope or intent of any provision of this Lease.

(c) Words of Inclusion. The use of the term "including," "such as" or words of similar import when following any general term, statement or matter shall not be construed to limit such term, statement or matter to the specific items or matters, whether or not language of non-limitation is used with reference thereto. Rather, such terms shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such statement, term or matter.

(d) No Presumption Against Drafter. This Lease has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein. In addition, each Party has been represented by experienced and knowledgeable legal counsel. Accordingly, this Lease shall be interpreted to achieve the intents and purposes of the Parties, without any presumption against the Party responsible for drafting any part of this Lease (including, but not limited to, California Civil Code Section 1654).

(e) Fees and Costs. The Party on which any obligation is imposed in this Lease shall be solely responsible for paying all costs and expenses incurred in the performance thereof, unless the provision imposing such obligation specifically provides to the contrary.

(f) Lease References. Wherever reference is made to any provision, term or matter "in this Lease," "herein" or "hereof" or words of similar import, the reference shall be deemed to refer to any and all provisions of this Lease reasonably related thereto in the context of such reference, unless such reference refers solely to a specific numbered or lettered , section or paragraph of this Lease or any specific subdivision thereof.

46.4 Successors and Assigns.

This Lease is binding upon and will inure to the benefit of the successors and assigns of Landlord, Tenant and any Mortgagee. Where the term "Tenant," "Landlord" or "Mortgagee" is used in this Lease, it means and includes their respective successors and assigns, including, as to any Mortgagee, any transferee and any successor or assign of such transferee. Whenever this Lease specifies or implies Port as a Party or the holder of the right or obligation to give approvals or consents, if Port or a comparable public body which has succeeded to Port's rights and obligations no longer exists, then the City will be deemed to be the successor and assign of Port for purposes of this Lease.

46.5 No Third Party Beneficiaries.

This Lease is for the exclusive benefit of the Parties hereto and not for the benefit of any other Person and shall not be deemed to have conferred any rights, express or implied, upon any other Person, except as provided in Section 42 with regard to Mortgagees.

46.6 Real Estate Commissions.

Landlord is not liable for any real estate commissions, brokerage fees or finder's fees which may arise from this Lease. Tenant and Landlord each represents that it engaged no broker, agent or finder in connection with this transaction. In the event any broker, agent or finder makes a claim, the Party through whom such claim is made agrees to Indemnify the other Party from any Losses arising out of such claim.

46.7 Counterparts.

This Lease may be executed in counterparts, each of which is deemed to be an original, and all such counterparts constitute one and the same instrument.

46.8 Entire Agreement.

This Lease (including the Exhibits) and the DDA, for so long as such agreement is in effect, constitute the entire agreement between the Parties with respect to the subject matter, hereof and supersede all negotiations or previous agreements between the Parties with respect to all or any part of the terms and conditions mentioned herein or incidental hereto. No parol evidence of any prior of other agreement shall be permitted to contradict or vary the terms of this Lease.

46.9 Amendment.

Neither this Lease nor any of the terms hereof may be terminated, amended or modified except by a written instrument executed by the Parties. No termination, amendment or modification which requires the prior approval of a Mortgagee shall become effective without the prior approval of such Mortgagee, pursuant to Section 42.12(h).

46.10 Governing Law; Selection of Forum.

This Lease shall be governed by, and interpreted in accordance with, the laws of the State of California. As part of the consideration for Landlord's entering into this Lease, Tenant agrees that all actions or proceedings arising directly or indirectly under this Lease may, at the sole option of Landlord, be litigated in courts having situs within the State of California, and Tenant consents to the jurisdiction of any such local, state or federal court, and consents that any service of process in such action or proceeding may be made by personal service upon Tenant wherever Tenant may then be located, or by certified or registered mail directed to Tenant at the address set forth herein for the delivery of notices.

46.11 Recordation.

This Lease will not be recorded by either Party. The Parties agree to execute and record in the Official Records a Memorandum of Lease in the form attached hereto as Exhibit K. Promptly upon Landlord's request following the expiration of the Term or any other termination of this Lease, Tenant shall deliver to Landlord a duly executed and acknowledged quitclaim deed suitable for recordation in the Official Records and in form and content satisfactory to Landlord and the City Attorney, for the purpose of evidencing in the public records the termination of Tenant's interest under this Lease. Landlord may record such quitclaim deed at any time on or after the termination of this Lease, without the need for any approval or further act of Tenant.

46.12 Extensions by Landlord.

Upon the request of Tenant, Landlord may, by written instrument, extend the time for Tenant's performance of any term, covenant or condition of this Lease or permit the curing of any default upon such terms and conditions as it determines appropriate, including but not limited to, the time within which Tenant must agree to such terms and/or conditions, provided, however, that any such extension or permissive curing of any particular default will not operate to release any of Tenant's obligations nor constitute a waiver of Landlord's rights with respect to any other term, covenant or condition of this Lease or any other default in, or breach of, this Lease or otherwise effect the time of the essence provisions with respect to the extended date or other dates for performance hereunder.

46.13 Further Assurances.

The Parties hereto agree to execute and acknowledge such other and further documents as may be necessary or reasonably required to express the intent of the Parties or otherwise effectuate the terms of this Lease.

46.14 Attorneys' Fees.

Except as provided in Section 2.5(b)(v) or in Section 12.6 with regard to an arbitration proceeding, if either Party hereto fails to perform any of its respective obligations under this Lease or if any dispute arises between the Parties hereto concerning the meaning or interpretation of any provision of this Lease, then the defaulting Party or the Party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other Party on account of such default and/or in enforcing or establishing its rights hereunder, including, without limitation, reasonable Attorneys' Fees and Costs. Any such Attorneys' Fees and Costs incurred by either Party in enforcing a judgment in its favor under this Lease shall be recoverable separately from and in addition to any other amount included in such judgment, and such Attorneys' Fees and Costs obligation is intended to be severable from the other provisions of this Lease and to survive and not be merged into any such judgment. For purposes of this Lease, the reasonable fees of attorneys of City's Office of City Attorney shall be based on the

fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the City Attorney's Office.

46.15 Effective Date.

This Lease shall become effective on the date (the "Effective Date") the Parties duly execute and deliver this Lease following approval by the City's Port Commission, Board of Supervisors and Mayor, in their respective sole and absolute discretion. The Effective Date will be inserted by Landlord on the cover page and on page 1 hereof, provided, however, that Landlord's failure to insert the Effective Date shall not invalidate this Lease. Where used in this Lease or in any of its exhibits, references to "the date of this Lease," the "reference date of this Lease," "Lease Date" or "Effective Date" will mean the Effective Date determined as set forth above and shown on the first page hereof.

46.16 Severability.

If any provision of this Lease, or its application to any Person or circumstance, is held invalid by any court, the invalidity or inapplicability of such provision shall not affect any other provision of this Lease or the application of such provision to any other Person or circumstance, and the remaining portions of this Lease shall continue in full force and effect, unless enforcement of this Lease as so modified by and in response to such invalidation would be grossly inequitable under all of the circumstances, or would frustrate the fundamental purposes of this Agreement.

SECTION 47. DEFINITION OF CERTAIN TERMS

For purposes of this Lease, initially capitalized terms shall have the meanings ascribed to them in this Section:

Access Parcels means the Park Access Parcel and the Channel Access Parcel.

Access Rights means the easements and related rights over the Access Parcels as described in Section 1.1(b).

Additional Rent means any and all sums (other than Minimum Rent) that may become due or be payable by Tenant under this Lease.

Advance Payment Rent Credit Dates as defined in Section 2.6(a).

Advance Payment Rent Credits as defined in Section 2.6(a).

Affiliate means any Person directly or indirectly Controlling, Controlled by or under Common Control with the other Person in question.

Agents means, when used with reference to either Party to this Lease, the members, officers, directors, commissioners, employees, agents and contractors of such Party, and their respective heirs, legal representatives, successors and assigns.

All Star Game means any professional baseball game played under the auspices of Major League Baseball between teams comprised of active players from multiple Major League Baseball teams who are selected or designated for participation on the basis of their skills or achievements.

Attorneys' Fees and Costs means reasonable attorneys' fees, costs, expenses and disbursements, including, but not limited to, expert witness fees and costs, travel time and associated costs, transcript preparation fees and costs, document copying, exhibit preparation, courier, postage, facsimile, long-distance and communications expenses, court costs and other reasonable costs and fees associated with any other legal, administrative or alternative dispute resolution proceeding, including such fees and costs associated with execution upon any judgment or order, and costs on appeal.

Award means all compensation, sums or value paid, awarded or received for a Condemnation, whether pursuant to judgment, agreement, settlement or otherwise.

Ballpark means the open-air baseball park to be constructed on the Premises pursuant to the DDA for the playing and public exhibition and enjoyment of Major League Baseball. The Ballpark will contain approximately 40,000 to 45,000 seats and be oriented toward the Bay. The Ballpark will be a first-class state-of-the-art facility with respect to its design, construction and operating efficiency and, while traditional and intimate in design, will incorporate modern amenities to enhance fan comfort and enjoyment.

Baseball Home Game means, individually and collectively, (a) each of the Team's scheduled or rescheduled home games during each Season; (b) each Post Season Game scheduled or rescheduled to be played by the Team at its home park; and (c) each exhibition game scheduled or rescheduled to be played by the Team at its home park. The term Baseball Home Game shall not include any regular Season, Post Season or exhibition game of the Team which under Baseball Rules and Regulations is scheduled or rescheduled to be played at any site other than the home baseball park of the Team.

Baseball Rules and Regulations means the following governing documents and agreements related to Major League Baseball: (i) the requirements of the Major League Agreement and the Major League Rules; (ii) the Professional Baseball Agreement; (iii) the National League and the American League Constitutions; (iv) the Basic Agreement among the American League Professional Baseball Clubs, the National League of Professional Baseball

Clubs and the Major League Players Association (1996-2000); (v) the Major League Agreement in re: Major League Central Fund; (vi) any present or future agreements, rules, regulations, policies or directives of Major League Baseball or the Office of the Commissioner of Baseball which are generally applicable to all member clubs of Major League Baseball; and (vii) any amendments to or modifications, replacements, extensions, or renewals of any of the foregoing.

Baseball Sublease means the sublease between Tenant, as sublandlord, and the Team Owner, as subtenant, for the exhibition and playing of Major League Baseball in the Ballpark, as such sublease may be amended from time to time.

BCDC means the Bay Conservation and Development Commission, a State agency established under the McAteer Petris Act.

Bona Fide Institutional Lender means any one or more of the following, whether acting in its own interest and capacity or in a fiduciary capacity for one or more Persons none of which need be Bona Fide Institutional Lenders: (i) a savings bank, a savings and loan association, a commercial bank or trust company or branch thereof, an insurance company, a governmental agency, a real estate investment trust, a religious, educational or eleemosynary institution, an employees' welfare, benefit, pension or retirement fund or system, an investment banking, merchant banking or brokerage firm, or any other Person or group of Persons which, at the time of a Mortgage is recorded in favor of such Person or Persons, has (or is Specially Controlled by a Person having) assets of at least $500 million in the aggregate (or the equivalent in foreign currency), and in the case of any Person or group of Persons none of whom is a savings bank, a savings and loan association, a commercial bank or trust company, an insurance company, a governmental agency, or a real estate investment trust, is regularly engaged in the financial services business, or (ii) any special account, managed fund, department, agency or Special Affiliate of any of the foregoing, or (iii) any person acting in a fiduciary capacity for any of the foregoing. For purposes hereof, (1) acting in a "fiduciary capacity" shall be deemed to include acting as a trustee, agent, or in a similar capacity under a mortgage, loan agreement, indenture or other loan document, (2) a lender, even if not a Bona Fide Institutional Lender, shall be deemed to be a Bona Fide Institutional Lender if promptly after such loan is consummated the note(s) or other evidence of indebtedness or the collateral securing the same are assigned to one or more persons then qualifying as a Bona Fide Institutional Lender, and (3) "Special Affiliate" means any Person directly or indirectly Specially Controlling, Specially Controlled by, or under common Special Control, through one or more other persons, with the person in question.

Burton Act means the provisions of Chapter 1333 of the Statutes of 1968 of the California Legislature, as amended, providing for the transfer to City from State, subject to specified terms, conditions and reservations, of the control and management of the certain tide and submerged lands comprising the Harbor of San Francisco.

Burton Act Agreement means that certain Agreement Relating to Transfer of Port of San Francisco from the State of California to the City and County of San Francisco, dated

January 24, 1969, entered into between City and State under the authority granted under the Burton Act.

Burton Act Trust means that statutory trust imposed by the Burton Act.

Ceiling as defined in Section 2.5(c).

Channel Access Parcel as defined in Section 1.1(b)(ii).

City means the City and County of San Francisco, a municipal corporation. City shall refer to the City operating by and through its Port Commission, where appropriate. All references to City shall include the Port.

Commencement Date as defined in Section 1.2(a)

Completion means completion of construction of all or any applicable portion of the Improvements in accordance with the terms of the DDA. The fact of Completion shall be conclusively evidenced by the issuance of a Certificate of Completion pursuant to the DDA (provided that Deferred Items shall be completed in accordance with the provisions of this Lease).

Condemnation means the taking or damaging, including severance damage, of all or any part of any property, or the right of possession thereof, by eminent domain, inverse condemnation, or for any public or quasi-public use under the law. Condemnation may occur pursuant to the recording of a final order of condemnation, or by a voluntary sale of all or any part of any property to any Person having the power of eminent domain (or to a designee of any such Person), provided that the property or such part thereof is then under the threat of condemnation or such sale occurs by way of settlement of a condemnation action.

Condemnation Date means the earlier of: (a) the date when the right of possession of the condemned property is taken by the condemning authority; or (b) the date when title to the condemned property (or any part thereof) vests in the condemning authority.

Confirmation Notice as defined in Section 2.5(b).

Construction Documents as defined in Section 10.4.

Control means the ownership (direct or indirect) by one Person of more than fifty percent (50%) of the profits or capital of another Person, and Controlled and Controlling have correlative meanings. Common Control means that two Persons are both Controlled by the same other Person.

DDA as defined in Recital D.

Deed Restriction means the declaration of restrictions recorded in the Official Records restricting uses of the site to commercial and industrial use.

Default Rate as defined in Section 2.10.

Demolition means to raze the Improvements (or relevant portion of the Improvements), except for the Waterfront Promenade and any Improvements financed with proceeds of the Tax Allocation Bonds which are structurally distinct from other Improvements being razed, remove any rubble or debris resulting therefrom, and cause the Property to be returned to a safe condition (and "Demolish" and "Demolished" shall have correlative meanings).

Demolition Period as defined in Section 34.2(a).

Designated Services as defined in Section 3.2.

Disabled Access Laws means all Laws related to access for persons with disabilities including, without limitation, the Americans with Disabilities Act, 42 U.S.C.S. §§ 12101 et seq. and disabled access laws under the Port's building code.

Effective Date as defined in Section 46.15.

Event of Default as defined in Section 22.1.

Excess Admissions Tax as defined in Section 4.4.

Executive Director means the Executive Director of the Port or his or her designee.

Existing Baseball Admissions Tax as defined in Section 4.4.

Extended Term as defined in Section 1.2(b).

Extension Fee Rent Credits as defined in Section 2.6(b).

Fair Market Rent as described in Section 2.5(a).

Fair Market Value as defined in Section 2.5(a).

Ferry Landing Facilities means improvements adjoining the Waterfront Promenade as may be constructed for the docking, embarking, and disembarking of ferries.

Final Construction Documents means plans and specifications sufficient for the processing of an application for a building permit in accordance with applicable Laws.

First Mortgage means a Mortgage which, at the time of its recordation in the Official Records, is not junior in lien priority to any other Mortgage then encumbering the interest encumbered by such Mortgage.

Floor as defined in Section 2.5(c).

Force Majeure means events which result in delays in a Party's performance of its obligations hereunder due to causes beyond such Party's control, including, but not restricted to, acts of God or of the public enemy, acts of the government, acts of the other Party, fires, floods, earthquakes, tidal waves, strikes, freight embargoes, delays of subcontractors and unusually severe weather and, in the case of Tenant, any delay resulting from a defect in Landlord's title to the Premises. Force Majeure does not include failure to obtain financing or have adequate funds. The delay caused by Force Majeure includes not only the period of time during which performance of an act is hindered, but also such additional time thereafter as may reasonably be required to make repairs, to Restore if appropriate, and to complete performance of the hindered act.

Foreclosure Purchaser as defined in Section 42.9(b).

GAAP means generally accepted accounting principles, consistently applied.

Guaranty means the Guaranty Agreement by the Team Owner for the benefit of Landlord, dated as of on or about the date hereof.

Handle when used with reference to Hazardous Materials means to use, generate, manufacture, process, produce, package, treat, transport, store, emit, discharge or dispose of any Hazardous Material ("Handling" will have a correlative meaning).

Hazardous Material means any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to the environment. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended, (42 U.S.C. Sections 9601 et seq.) or under Section 25281 or Section 25316 of the California Health & Safety Code; any "hazardous waste" as defined in Section 25117 or listed under Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the structure of any existing Improvements on the Premises, any Improvements to be constructed on the Premises by or on behalf of Tenant, or are naturally occurring substances on, in or about the

Premises and petroleum, including crude oil or any fraction, and natural gas or natural gas liquids.

Hazardous Material Claims means any and all enforcement, Investigation, Remediation or other governmental or regulatory actions, agreements or orders threatened, instituted or completed under any Environmental Laws, together with any and all Losses made or threatened by any third party against City, including the Port, or the Redevelopment Agency, their Agents, or the Premises or any Improvements, relating to damage, contribution, cost recovery compensation, loss or injury resulting from the presence, release or discharge of any Hazardous Materials, including, without limitation, Losses based in common law. Hazardous Material Claims include, without limitation, Investigation and Remediation costs, fines, natural resource damages, damages for decrease in value of the Premises or any Improvements, the loss or restriction of the use or any amenity of the Premises or any Improvements, and attorneys' fees and consultants' fees and experts' fees and costs.

Hazardous Material Laws means any present or future federal, state or local Laws relating to Hazardous Material (including, without limitation, its Handling, transportation or Release) or to human health and safety, industrial hygiene or environmental conditions in, on, under or about the Premises (including the Improvements), including, without limitation, soil, air, air quality, water, water quality and groundwater conditions. Hazardous Materials Laws include, but are not limited to, the City's Pesticide Ordinance (Chapter 39 of the San Francisco Administrative Code), to the extent applicable to tenants of City property on the effective date of the DDA, and Article 20 of the San Francisco Public Works Code ("Analyzing Soils for Hazardous Waste").

Impositions as defined in Section 4.1(b).

Improvement Measures means all of the conditions and covenants with respect to the lease of the Project as are described in Exhibit F.

Improvements means all buildings, structures, fixtures and other improvements erected, built, placed, installed or constructed upon or within the Premises on or after the Commencement Date (and specifically excluding any improvements existing at the date hereof other than the bulkhead wall, the pier substructure, and the Waterfront Promenade, to the extent in existence as of the Commencement Date) including, but not limited to, the Initial Improvements, together with the bulkhead wall, the pier substructure and the Waterfront Promenade.

Indemnified Parties means City, including, but not limited to, all of its boards, commissions, departments, agencies and other subdivisions, including, without limitation, the Port; the Redevelopment Agency; all of the Agents of the City, including its Port, and the Redevelopment Agency; and all of their respective heirs, legal representatives, successors and assigns, and each of them.

Indemnify means indemnify, protect and hold harmless.

Index as defined in Section 2.2.

Indexed means the product of the number to be Indexed multiplied by the percentage increase, if any, in the Index from the first day of the month in which the Commencement Date occurred to the first day of the most recent month for which the Index is available at any given time.

Initial Improvements means all Improvements to be built on the Premises or portion(s) thereof under the DDA, including, but not limited to, the Ballpark.

Initial Term as defined in Section 1.2(a).

Investigate or Investigation when used with reference to Hazardous Material means any activity undertaken to determine the nature and extent of Hazardous Material that may be located in, on, under or about the Premises, any Improvements or any portion of the site or the Improvements or which have been, are being, or threaten to be Released into the environment. Investigation shall include, without limitation, preparation of site history reports and sampling and analysis of environmental conditions in, on, under or about the Premises or any Improvements.

Invitees when used with respect to Tenant or any Subtenant means the customers, patrons, invitees, guests, members, licensees, assignees and Subtenants of Tenant and the customers, patrons, invitees, guests, members, licensees, assignees and sub-tenants of Subtenants.

Landlord means the City and County of San Francisco acting through the San Francisco Port Commission.

Law or Laws means any one or more present and future laws, ordinances, rules, regulations, permits, authorizations, orders and requirements, to the extent applicable to the Parties or to the Premises or any portion thereof, whether or not in the present contemplation of the Parties, including, without limitation, all consents or approvals (including Regulatory Approvals) required to be obtained from, and all rules and regulations of, and all building and zoning laws of, all federal, state, county and municipal governments, the departments, bureaus, agencies or commissions thereof, authorities, boards of officers, any national or local board of fire underwriters, or any other body or bodies exercising similar functions, having or acquiring jurisdiction of, or which may affect or be applicable to, the Premises or any part thereof, including, without limitation, any subsurface area, the use thereof and of the buildings and Improvements thereon.

Lease means this Ground Lease, as it may be amended from time to time.

Leasehold Estate means Tenant's leasehold estate created by this Lease.

Loss or Losses when used with reference to any Indemnity means any and all claims, demands, losses, liabilities, damages (including foreseeable and unforeseeable consequential damages), liens, obligations, interest, injuries, penalties, fines, lawsuits and other proceedings, judgments and awards and costs and expenses, (including, without limitation, reasonable Attorneys' Fees and Costs and consultants' fees and costs) of whatever kind or nature, known or unknown, contingent or otherwise.

Major Damage as defined in Section 12.3(d).

Major League Baseball means, collectively, the American League and the National League of Professional Baseball Clubs as now or hereafter constituted or organized and any other league of professional baseball clubs which may be constituted from time to time and recognized as a major league authorized to play professional baseball games under Baseball Rules and Regulations.

Memorandum of Lease means the Memorandum of this Lease, between Landlord and Tenant, recorded in the Official Records.

Minimum Rent as defined in Section 2.2.

Mitigation Measures means all of the measures relating to the Project described in Exhibit E.

Mortgage means a mortgage, deed of trust, assignment of rents, fixture filing, security agreement or similar security instrument or assignment of Tenant's leasehold interest under this Lease that is recorded in the Official Records.

Mortgagee means the holder or holders of a Mortgage. Multiple lenders participating in a single loan secured by a single Mortgage shall be deemed a single Mortgagee for purposes of this Lease.

Naming Rights Agreement as defined in Section 3.3.

National League means the National League of Professional Baseball Clubs, as now constituted under its existing Constitution or as it may hereafter be constituted or organized.

Net Awards and Payments as defined in Section 13.4.

Net Worth means the amount by which assets exceed liabilities, determined in accordance with GAAP.

Non-Affiliate Mortgage means a Mortgage that is held by a Non-Affiliate Mortgagee.

Non-Affiliate Mortgagee means the holder of a Mortgage, which holder (A) is not an Affiliate of Tenant, or (B) is a Bona Fide Institutional Lender.

Non-Disturbance Agreements as defined in Section 16.4(a).

Non-Relocation Agreement means the agreement by the Team Owner in favor of the City, including its Port, dated as of the date hereof.

Office of the Commissioner of Baseball means the individual selected by the owners of Major League Baseball franchises to serve as the Commissioner of Baseball, and the staff, duly authorized representatives, and employees of the Commissioner of Baseball, or any successor thereto.

Official Records means, with respect to the recordation of Mortgages and other documents and instruments, the Official Records of the City and County of San Francisco.

OPA means the Owner Participation Agreement between the Redevelopment Agency and Tenant.

Option as defined in Section 1.2(b).

Option Notice as defined in Section 1.2(b).

Other Events as defined in Section 3.1(a)(ii).

Other Indemnified Parties means all Indemnified Parties other than the City.

Park Access Parcel as defined in Section 1.1(b)(i).

Partial Condemnation as defined in Section 13.3.

Party means Landlord or Tenant, as a party to this Lease; Parties means both Landlord and Tenant, as Parties to this Lease.

Pavilion Building means that certain building to be located on Third Street along the western boundary of the Premises, physically connected to the Ballpark and forming part of the Initial Improvements.

Permitted Title Exceptions as defined in Section 1.1(c).

Permitted Transferee means (i) an Affiliate of Tenant or (ii) another transferee or proposed transferee who, in either case, satisfies the Transferee Criteria.

Permitted Uses as defined in Section 3.1.

Person means any individual, partnership, corporation (including, but not limited to, any business trust), limited liability company, joint stock company, trust, unincorporated association, joint venture or any other entity or association, the United States, or a federal, state or political subdivision thereof.

Personal Property means all fixtures, furniture, furnishings, equipment, machinery, supplies, software and other tangible personal property that is incident to the ownership, development or operation of the Improvements and/or the Premises, whether now or hereafter located in, upon or about the Premises, belonging to Tenant and/or in which Tenant has or may hereafter acquire an ownership interest, together with all present and future attachments, accessions, replacements, substitutions and additions thereto or therefor.

Port means the San Francisco Port Commission, an agency of the City and County of San Francisco.

PortWalk as defined in the Waterfront Plan.

Post Season Games means any Major League Baseball game played after the last regularly scheduled Baseball Home Game in a Season in order to determine which teams will play in the World Series, and specifically including any playoff games, League Championship Series Games and all World Series Games.

Premises as defined in Recital A.

Program in Diversity as defined in Section 43.

Project means the development of the Ballpark and other related Improvements.

Property as defined in Section 1.1.

Public Access Areas means (1) the Waterfront Promenade, and (2) other portions of the Property which are designated as public access areas in an instrument executed by Tenant and Landlord and recorded in the Official Records, which recites that it has been recorded to satisfy one or more conditions imposed in connection with the grant of a Regulatory Approval. Unless otherwise specified in a recorded instrument executed by Landlord, the designation of any

portion of the Property as a Public Access Areas shall expire and cease to have any effect upon the expiration or earlier termination of this Lease. In addition, unless otherwise specified in a recorded instrument executed by Landlord and Tenant, the designation of a portion of the Property as a Public Access Area shall expire if the Regulatory Approval, in connection with which such designation was recorded, expires or otherwise terminates.

Qualified Developer means a Person with whom Landlord is not otherwise prevented by law or adopted policy of Landlord from transacting business or entering into a contract, which Person possesses the experience, qualifications and financial resources necessary for the proper performance of Tenant's obligations under this Lease and the DDA to construct and sublease the Improvements on the Premises, subject to Landlord's approval, not to be unreasonably withheld or delayed. A proposed Mortgagee may make a request of Landlord in writing for approval as a Qualified Developer, which approval shall be granted or denied by Landlord not more than thirty (30) days following such request.

Qualified Manager means a Person who satisfies the Transferee Criteria.

Redevelopment Agency means the Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic, established pursuant to the Community Redevelopment Law of the State of California.

Redevelopment Plan means the Rincon Point-South Beach Redevelopment Plan, as amended, as more particularly described in the OPA, including any amendments, extensions or renewals of such plan as have been or may be approved by City.

Redevelopment Project Area means the Rincon Point/South Beach Redevelopment Project Area as described in the Redevelopment Plan, as amended.

Regulatory Approval means any authorization, approval or permit required by any governmental agency having jurisdiction over the Premises, including, but not limited to, BCDC, RWQCB, the Coast Guard and the Army Corps of Engineers.

Release when used with respect to Hazardous Material means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or inside any existing improvements or any Improvements constructed under this Lease or the DDA by or on behalf of Tenant, or in, on, under or about the Premises or any portion thereof.

Remediate or Remediation when used with reference to Hazardous Materials means any activities undertaken to clean up, remove, contain, treat, stabilize, monitor or otherwise control Hazardous Materials located in, on, under or about the Premises or which have been, are being, or threaten to be Released into the environment. Remediation includes, without limitation, those actions included within the definition of "remedy" or "remedial action" in

California Health and Safety Code Section 25322 and "remove" or "removal" in California Health and Safety Code Section 25323.

Remediation Plan as defined in Section 19.1(d).

Rent as defined in Section 2.2.

Rent Credits mean the Advance Payment Rent Credits and the Extension Fee Rent Credits.

Rent Payment Dates as defined in Section 2.3.

Restoration means the restoration, replacement, or rebuilding of the Improvements (or the relevant portion thereof) in accordance with all Laws then applicable; provided that Tenant shall not be required to Restore the Improvements to the identical size or configuration as existed before the event giving rise to the Restoration so long as the Improvements, as Restored, constitute a first-class Project. In connection with any Restoration, the Ballpark and the other Improvements may be redesigned, made larger or smaller, reconfigured, or otherwise modified, provided that the Project as so redesigned complies with applicable requirements of the Tidelands Trust and is a first-class Project affording similar public benefit as the original Project, subject to the provisions of Section 12 relating to Subsequent Construction. All Restoration shall be conducted in accordance with the provisions of Section 10. ("Restore" and "Restored" shall have correlative meanings.)

Rules and Regulations means the rules and regulations attached hereto as Exhibit J. Landlord may revise the rules and regulations or promulgate additional rules and regulations from time to time upon reasonable notice to Tenant, provided that no such revised or additional rules and regulations shall materially decrease Tenant's rights or increase Tenant's obligations, nor decrease Landlord's responsibilities, under this Lease, and further provided, that all such revised or additional rules and regulations shall be of general application to Landlord's tenants. The foregoing sentence shall not be deemed to limit Landlord's ability to act in its legislative or regulatory capacity, or in the exercise of its police powers, nor to waive any claim on the part of Tenant that any such action on the part of Landlord constitutes a Condemnation or an impairment of Tenant's contract with Landlord.

RWQCB shall mean the San Francisco Bay Regional Water Quality Control Board of Cal/EPA, a state agency.

Safety Repairs as defined in Section 12.3(g).

Schedule of Performance as defined in the DDA.

Schematic Drawings means conceptual drawings in sufficient detail to describe a development proposal.

Season means the annual period commencing with the first regularly scheduled Baseball Home Game (other than exhibition games) played by the Team in accordance with the schedule established under Baseball Rules and Regulations each year as part of the competition to determine the League Championship, and ending with the last Baseball Home Game played by the Team during such year, including any other Major League Baseball game scheduled, required or authorized by the rules of the National League as part of the regular season of Major League Baseball (including All-Star, charity or exhibition games but exclusive of Post Season Games). A Season shall include any partial Season if not all Baseball Home Games are played at the Ballpark due to Force Majeure.

Seat Rights as defined in Section 16.2.

Security Deposit as defined in Section 15.1.

Significant Change as defined in Section 16.1(a).

South Beach Park means the area adjoining the Premises to the north, owned by Landlord, as trustee under the Tidelands Trust, and described in the Redevelopment Plan as South Beach Park. South Beach Park is the subject of a master lease from Landlord to the Redevelopment Agency.

Special Affiliate as defined in the definition of Bona Fide Institutional Lender.

Special Control means the power to direct the affairs or management of another Person, whether by contract, operation of Law or otherwise (and Specially Controlling and Specially Controlled shall have correlative meanings).

Standstill Period as defined in Section 12.3(g).

State as defined in Section 1.1(d).

Sublease means any lease, sublease, license, concession or other agreement (including, without limitation, the Baseball Sublease) by which Tenant leases, subleases, demises, licenses or otherwise grants to any Person in conformity with the provisions of this Lease, the right to occupy or use any portion of the Premises (whether in common with or to the exclusion of other Persons), but excluding Seat Rights. Subleases may include without limitation, agreements with regard to signage and advertising, agreements granting exclusive or non-exclusive rights to sell food, beverages or souvenirs during baseball games and Other Events, pouring rights agreements, and agreements for the operation of booths, kiosks, carts, vending machines and automatic teller machines. Seat Rights are not Subleases.

Subsequent Construction means all repairs to and reconstruction, replacement, addition, expansion, Restoration, alteration or modification of any Improvements, or any construction of additional Improvements, following completion of the Initial Improvements pursuant to the DDA.

Subtenant means any Person leasing, occupying or having the right to occupy under and by virtue of a Sublease.

Subtenant Spaces means space in the Premises subleased to Subtenants.

Tax Allocation Bonds means the tax allocation bonds issued by the Redevelopment Agency to finance certain infrastructure improvements needed to support the Ballpark based on tax increment generated by the Project from the Premises, upon the terms and subject to the conditions contained in the OPA.

Team means the San Francisco Giants professional baseball club.

Team Owner means San Francisco Baseball Associates L.P., a California limited partnership, which holds a Franchise issued by the National League and owns the Team, and its successors and assigns.

Tenant means China Basin Ballpark Company LLC, a Delaware limited liability company, and its permitted successors and assigns.

Term as defined in Section 1.2(c).

Termination Payment as defined in Section 6.1(g).

Tidelands Trust means the public trust for commerce, navigation and fisheries, including, without limitation, the statutory trust imposed by the Burton Act.

Total Condemnation as defined in Section 13.2.

Transfer as defined in Section 16.1(a).

Transferee Criteria means a transferee or proposed transferee (A) with whom Landlord is not otherwise forbidden by applicable law from transacting business or entering into contracts, (B) possesses the financial resources necessary for the proper performance of Tenant's obligations under this Lease, as determined by Landlord in its reasonable judgment, and (C) who has received the approval (to the extent such approval is required) of the Office of the Commissioner of Baseball and/or other Major League Baseball authorities whose approval is required under the Baseball Rules and Regulations, or, if no such approval by Major League

Baseball authorities is required, is either an Affiliate of the Team Owner, or has a Net Worth of at least eight times the then Minimum Rent and is experienced (directly or through Affiliates or employees) in owning or managing first-class urban commercial developments.

Waterfront Plan means the Waterfront Land Use Plan, including the Waterfront Design and Access Element, for the approximately 7-1/2 miles of waterfront property under the Port's jurisdiction.

Waterfront Promenade means the Public Access Area which adjoins the Ballpark and overlooks the waterfront at the China Basin Channel. The Waterfront Promenade shall be part of the PortWalk, extending such access area along the northern edge of the China Basin Channel from the Embarcadero promenade (Herb Caen Way) with Third Street, adjacent to the Lefty O'Doul Bridge.

Waterfront Promenade Parcel means the portion of the Property described as the Waterfront Promenade Parcel in Exhibit A, which contains the Waterfront Promenade.

Withdrawal Notice as defined in Section 2.5(b).

Work as defined in Section 10.8.

IN WITNESS WHEREOF, the Parties have executed this Lease as of the day and year first above written.

TENANT

CHINA BASIN BALLPARK COMPANY LLC,
a Delaware limited liability company

By: _____
Peter A. Magowan
Chairman and Chief Executive Officer

LANDLORD

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, operating by and through
the SAN FRANCISCO PORT COMMISSION

By _____
Douglas F. Wong
Executive Director

APPROVED AS TO FORM:

LOUISE H. RENNE, City Attorney

By: _____
Julie Van Nostern
Port General Counsel

By: _____
Jesse Capin Smith
Deputy City Attorney

EXHIBIT A

DESCRIPTION OF PREMISES

LEGAL DESCRIPTION
CALTRANS PARCEL

ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

NOTE: ALL ELEVATIONS HEREINAFTER MENTIONED REFER TO CITY AND COUNTY OF SAN FRANCISCO DATUM.

TRACT 1

BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHEASTERLY LINE OF THIRD STREET AND THE SOUTHEASTERLY LINE OF KING STREET; RUNNING THENCE NORTHEASTERLY ALONG SAID LINE OF KING STREET 825 FEET, TO THE SOUTHWESTERLY LINE OF SECOND STREET; THENCE AT A RIGHT ANGLE SOUTHEASTERLY ALONG SAID LINE OF SECOND STREET 275 FEET; THENCE AT A RIGHT ANGLE SOUTHWESTERLY AND PARALLEL WITH KING STREET 825 FEET, TO THE NORTHEASTERLY LINE OF THIRD STREET; THENCE AT A RIGHT ANGLE NORTHWESTERLY AND ALONG SAID LINE OF THIRD STREET 275 FEET TO THE POINT OF BEGINNING.

BEING A PORTION OF 100 VARA BLOCK NO. 361.

EXCEPTING THEREFROM THAT PORTION OF THE HEREIN DESCRIBED LAND AS CONVEYED TO THE CITY AND COUNTY OF SAN FRANCISCO BY THAT CERTAIN DIRECTOR'S DEED DATED MAY 3, 1991 AND RECORDED MAY 10, 1991 IN REEL F373 OFFICIAL RECORDS, IMAGE 0467, AND RE-RECORDED JUNE 26, 1991 IN REEL F405 OFFICIAL RECORDS, IMAGE 0467.

LEGAL DESCRIPTION
PORT PARCELS

ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

NOTE: ALL ELEVATIONS HEREINAFTER MENTIONED REFER TO CITY AND COUNTY OF SAN FRANCISCO DATUM.

TRACT 2A
PORT PARCEL NORTH OF BULKHEAD WALL

COMMENCING AT THE POINT OF INTERSECTION OF THE NORTHEASTERLY LINE OF THIRD STREET WITH THE SOUTHEASTERLY LINE OF KING STREET, AS SAID KING STREET EXISTS AFTER THE WIDENING THEREOF AS SHOWN ON THAT CERTAIN MAP ENTITLED "MAP SHOWING THE WIDENING OF KING STREET BETWEEN SECOND AND THIRD STREET", RECORDED JANUARY 26, 1993, IN REEL F807 OF OFFICIAL RECORDS, IMAGE 771; THENCE ALONG SAID LINE OF THIRD STREET SOUTH 43° 41' 53" EAST 235.50 FEET TO THE SOUTHEASTERLY LINE OF BERRY STREET AND THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTHEASTERLY LINE OF THIRD STREET 43° 41' 53" EAST 193 FEET PLUS OR MINUS TO THE OUTSIDE FACE (WATERWARD FACE) OF AN EXISTING BULKHEAD WALL, AS SAID WALL IS SHOWN ON THAT CERTAIN DRAWING ENTITLED, "BOARD OF STATE HARBOR COMMISSIONERS, STATE DEPARTMENT OF ENGINEERING, PLANS FOR SUBSTRUCTURE - CHINA BASIN TERMINAL, PILING AND FOUNDATION PLAN", DATED OCTOBER 26, 1921, DRAWING 4043-15, SHEET 3 OF 9, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE ALONG SAID FACE OF WALL NORTH 24° 23' 38" WEST 5 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL NORTH 20° 36' 22" EAST 7 FEET PLUS OR MINUS TO ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL (SAID WALL CONSISTING OF NUMEROUS ARCHES) GENERALLY NORTH 65° 36' 22" EAST 795 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL SOUTH 24° 23' 38" EAST 18 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL NORTH 65° 36' 22" EAST 95 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL NORTH 24° 23' 38" WEST 57 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL NORTH 88° 42' 44" EAST 35 PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL NORTH 42° 50' 42" EAST 8 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL 3° 01' 20" WEST 20 FEET PLUS OR MINUS TO THE SOUTHEASTERLY PROLONGATION OF THE NORTHEASTERLY LINE OF SECOND STREET; THENCE ALONG SAID PROLONGATION NORTH 43° 41' 53" WEST 451 FEET PLUS OR MINUS TO THE SOUTHEASTERLY LINE OF BERRY STREET; THENCE ALONG SAID LINE OF BERRY STREET SOUTH 46° 18' 07" WEST 908.454 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL SUBSURFACE MINERAL DEPOSITS, INCLUDING OIL AND GAS DEPOSITS, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS ON SAID LAND FOR EXPLORATION, DRILLING AND EXTRACTION OF SUCH MINERAL, OIL AND GAS DEPOSITS, AS EXCEPTED AND RESERVED BY THE STATE OF CALIFORNIA IN CHAPTERS 1333, STATUTES 1968 AND AMENDMENTS THERETO, AND UPON THE TERMS AND PROVISIONS SET FORTH THEREIN.

LEGAL DESCRIPTION
PORT PARCELS

ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

NOTE: ALL ELEVATIONS HEREINAFTER MENTIONED REFER TO CITY AND COUNTY OF SAN FRANCISCO DATUM.

TRACT 2B
WATERFRONT PROMENADE PARCEL

ALL THAT REAL PROPERTY ABOVE A HORIZONTAL PLANE AT ELEVATION MINUS 2.2 FEET, BOUNDED BY PLANES PROJECTED VERTICALLY ABOVE THE LIMITS OF CERTAIN LAND DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF INTERSECTION OF THE NORTHEASTERLY LINE OF THIRD STREET WITH THE SOUTHEASTERLY LINE OF KING STREET, AS SAID KING STREET EXISTS AFTER THE WIDENING THEREOF AS SHOWN ON THAT CERTAIN MAP ENTITLED "MAP SHOWING THE WIDENING OF KING STREET BETWEEN SECOND AND THIRD STREETS", RECORDED JANUARY 26, 1993, IN REEL F807 OF OFFICIAL RECORDS, IMAGE 771; THENCE ALONG SAID LINE OF THIRD STREET SOUTH 43° 41' 53" EAST 235.50 FEET TO THE SOUTHEASTERLY LINE OF BERRY STREET; THENCE CONTINUING ALONG SAID NORTHEASTERLY LINE OF THIRD STREET 43° 41' 53" EAST 193 FEET PLUS OR MINUS TO A POINT ON THE OUTSIDE FACE (WATERWARD FACE) OF AN EXISTING BULKHEAD WALL, AS SAID WALL IS SHOWN ON THAT CERTAIN DRAWING ENTITLED, "BOARD OF STATE HARBOR COMMISSIONERS, STATE DEPARTMENT OF ENGINEERING, PLANS FOR SUBSTRUCTURE - CHINA BASIN TERMINAL, PILING AND FOUNDATION PLAN", DATED OCTOBER 26, 1921, DRAWING 4043-15, SHEET 3 OF 9, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE ALONG SAID FACE OF WALL NORTH 24° 23' 38" WEST 5 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL NORTH 20° 36' 22" EAST 7 FEET PLUS OR MINUS TO ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL (SAID WALL CONSISTING OF NUMEROUS ARCHES) GENERALLY NORTH 65° 36' 22" EAST 795 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL SOUTH 24° 23' 38" EAST 18 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL NORTH 65° 36' 22" EAST 95 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL NORTH 24° 23' 38" WEST 57 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL NORTH 88° 42' 44" EAST 35 PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL NORTH 42° 50' 42" EAST 8 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL 3° 01' 20" WEST 20 FEET PLUS OR MINUS TO THE SOUTHEASTERLY PROLONGATION OF THE NORTHEASTERLY LINE OF SECOND STREET; THENCE ALONG SAID PROLONGATION SOUTH 43° 41' 53" EAST 73 FEET PLUS OR MINUS TO A POINT DISTANT ALONG SAID PROLONGATION SOUTH 43° 41' 53" EAST 523.369 FEET FROM THE SOUTHEASTERLY LINE OF BERRY STREET; THENCE SOUTH 65° 36' 22" WEST 962.573 FEET TO THE NORTHEASTERLY LINE OF THIRD STREET; THENCE ALONG SAID LINE OF THIRD STREET 43° 41' 53" WEST 12 FEET PLUS OR MINUS TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL SUBSURFACE MINERAL DEPOSITS, INCLUDING OIL AND GAS DEPOSITS, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS ON SAID LAND FOR EXPLORATION, DRILLING AND EXTRACTION OF SUCH MINERAL, OIL AND GAS DEPOSITS, AS EXCEPTED AND RESERVED BY THE STATE OF CALIFORNIA IN CHAPTERS 1333, STATUTES 1968 AND AMENDMENTS THERETO, AND UPON THE TERMS AND PROVISIONS SET FORTH THEREIN.

LEGAL DESCRIPTION
STREET AREAS

ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

NOTE: ALL ELEVATIONS HEREINAFTER MENTIONED REFER TO CITY AND COUNTY OF SAN FRANCISCO DATUM.

TRACT 2C

ALL THAT PORTION OF BERRY STREET, AS IT NOW EXISTS, LYING BETWEEN THE NORTHEAST LINE OF THIRD STREET AND THE SOUTHWEST LINE OF SECOND STREET, AS SAID STREETS NOW EXIST.

EXCEPTING THEREFROM ALL SUBSURFACE MINERAL DEPOSITS, INCLUDING OIL AND GAS DEPOSITS, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS ON SAID LAND FOR EXPLORATIONS, DRILLING AND EXTRACTION OF SUCH MINERAL, OIL AND GAS DEPOSITS, AS EXCEPTED AND RESERVED BY THE STATE OF CALIFORNIA IN CHAPTERS 1333, STATUTES OF 1968 AND AMENDMENTS THERETO, AND UPON THE TERMS AND PROVISIONS SET FORTH THEREIN.

TRACT 2D

ALL THAT PORTION OF SECOND STREET, AS IT NOW EXISTS, LYING BETWEEN THE SOUTHEAST LINE OF KING STREET AND THE NORTHWEST LINE OF BERRY STREET, AS SAID STREETS NOW EXIST.

EXCEPTING THEREFROM ALL SUBSURFACE MINERAL DEPOSITS, INCLUDING OIL AND GAS DEPOSITS, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS ON SAID LAND FOR EXPLORATIONS, DRILLING AND EXTRACTION OF SUCH MINERAL, OIL AND GAS DEPOSITS, AS EXCEPTED AND RESERVED BY THE STATE OF CALIFORNIA IN CHAPTERS 1333, STATUTES OF 1968 AND AMENDMENTS THERETO, AND UPON THE TERMS AND PROVISIONS SET FORTH THEREIN.

EXHIBIT A-1

DESCRIPTION OF PARK ACCESS PARCEL

LEGAL DESCRIPTION
ACCESS PARCELS

ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

NOTE: ALL ELEVATIONS HEREINAFTER MENTIONED REFER TO CITY AND COUNTY OF SAN FRANCISCO DATUM.

PARK ACCESS PARCEL NORTH OF BULKHEAD WALL

COMMENCING AT THE POINT OF INTERSECTION OF THE NORTHEASTERLY LINE OF THIRD STREET WITH THE SOUTHEASTERLY LINE OF KING STREET, AS SAID KING STREET EXISTS AFTER THE WIDENING THEREOF AS SHOWN ON THAT CERTAIN MAP ENTITLED "MAP SHOWING THE WIDENING OF KING STREET BETWEEN SECOND AND THIRD STREETS", RECORDED JANUARY 26, 1993, IN REEL F807 OF OFFICIAL RECORDS, IMAGE 771; THENCE ALONG SAID LINE OF KING STREET NORTH 46° 18' 07" EAST 908.454 FEET TO THE NORTHEASTERLY LINE OF SECOND STREET AND THE TRUE POINT OF BEGINNING; THENCE ALONG SAID LINE OF SECOND STREET 43° 41' 53" WEST 4 FEET TO THE SOUTHEASTERLY LINE OF SAID KING STREET; THENCE ALONG LAS SAID LINE OF SAID KING STREET 46° 18' 07" EAST 50 FEET; THENCE SOUTH 43° 41' 53" EAST 632 FEET PLUS OR MINUS TO THE OUTSIDE FACE (WATERWARD FACE) OF AN EXISTING BULKHEAD WALL; THENCE ALONG SAID FACE OF WALL SOUTH 3° 01' 20" EAST 77 FEET PLUS OR MINUS TO THE SOUTHEASTERLY PROLONGATION OF THE NORTHEASTERLY LINE OF SECOND STREET; THENCE ALONG SAID PROLONGATION 43° 41' 53" WEST 686 FEET PLUS OR MINUS TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL SUBSURFACE MINERAL DEPOSITS, INCLUDING OIL AND GAS DEPOSITS, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS ON SAID LAND FOR EXPLORATION, DRILLING AND EXTRACTION OF SUCH MINERAL, OIL AND GAS DEPOSITS, AS EXCEPTED AND RESERVED BY THE STATE OF CALIFORNIA IN CHAPTERS 1333, STATUTES 1968 AND AMENDMENTS THERETO, AND UPON THE TERMS AND PROVISIONS SET FORTH THEREIN.

PARK ACCESS PARCEL SOUTH OF BULKHEAD WALL

COMMENCING AT THE POINT OF INTERSECTION OF THE NORTHEASTERLY LINE OF THIRD STREET WITH THE SOUTHEASTERLY LINE OF KING STREET, AS SAID KING STREET EXISTS AFTER THE WIDENING THEREOF AS SHOWN ON THAT CERTAIN MAP ENTITLED "MAP SHOWING THE WIDENING OF KING STREET BETWEEN SECOND AND THIRD STREETS", RECORDED JANUARY 26, 1993, IN REEL F807 OF OFFICIAL RECORDS, IMAGE 771; THENCE ALONG SAID LINE OF KING STREET NORTH 46° 18' 07" EAST 908.454 FEET TO THE NORTHEASTERLY LINE OF SECOND STREET; THENCE ALONG SAID LINE OF SECOND STREET 43° 41' 53" WEST 4 FEET TO THE SOUTHEASTERLY LINE OF SAID KING STREET; THENCE ALONG LAST SAID LINE OF SAID KING STREET 46° 18' 07" EAST 50 FEET; THENCE SOUTH 43° 41' 53" EAST 632 FEET PLUS OR MINUS TO THE OUTSIDE FACE (WATERWARD FACE) OF AN EXISTING BULKHEAD WALL AND THE TRUE POINT OF BEGINNING; THENCE ALONG SAID FACE OF WALL SOUTH 3° 01' 20" EAST 77 FEET PLUS OR MINUS TO THE SOUTHEASTERLY PROLONGATION OF THE NORTHEASTERLY LINE OF SECOND STREET; THENCE ALONG SAID PROLONGATION SOUTH 43° 41' 53" EAST 73 FEET PLUS OR MINUS TO A POINT DISTANT ALONG SAID PROLONGATION SOUTH 43° 41' 53" EAST 523.369 FEET FROM THE SOUTHEASTERLY LINE OF BERRY STREET; THENCE NORTH 3° 01' 20" WEST 76.713 FEET; THENCE NORTH 43° 41' 53" WEST 73 FEET PLUS OR MINUS TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL SUBSURFACE MINERAL DEPOSITS, INCLUDING OIL AND GAS DEPOSITS, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS ON SAID LAND FOR

EXPLORATION, DRILLING AND EXTRACTION OF SUCH MINERAL, OIL AND GAS DEPOSITS, AS EXCEPTED AND RESERVED BY THE STATE OF CALIFORNIA IN CHAPTERS 1333, STATUTES 1968 AND AMENDMENTS THERETO, AND UPON THE TERMS AND PROVISIONS SET FORTH THEREIN.

LEGAL DESCRIPTION
ACCESS PARCEL

ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

NOTE: ALL ELEVATIONS HEREINAFTER MENTIONED REFER TO CITY AND COUNTY OF SAN FRANCISCO DATUM.

CHANNEL ACCESS PARCEL

ALL THAT REAL PROPERTY BELOW A HORIZONTAL PLANE AT ELEVATION MINUS 2.2 FEET, BOUNDED BY PLANES PROJECTED VERTICALLY ABOVE THE LIMITS OF CERTAIN LAND DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF INTERSECTION OF THE NORTHEASTERLY LINE OF THIRD STREET WITH THE SOUTHEASTERLY LINE OF KING STREET, AS SAID KING STREET EXISTS AFTER THE WIDENING THEREOF AS SHOWN ON THAT CERTAIN MAP ENTITLED "MAP SHOWING THE WIDENING OF KING STREET BETWEEN SECOND AND THIRD STREETS", RECORDED JANUARY 26, 1993, IN REEL F807 OF OFFICIAL RECORDS, IMAGE 771; THENCE ALONG SAID LINE OF THIRD STREET SOUTH 43° 41' 53" EAST 235.50 FEET TO THE SOUTHEASTERLY LINE OF BERRY STREET; THENCE CONTINUING ALONG SAID NORTHEASTERLY LINE OF THIRD STREET 43° 41' 53" EAST 193 FEET PLUS OR MINUS TO A POINT ON THE OUTSIDE FACE (WATERWARD FACE) OF AN EXISTING BULKHEAD WALL, AS SAID WALL IS SHOWN ON THAT CERTAIN DRAWING ENTITLED, "BOARD OF STATE HARBOR COMMISSIONERS, STATE DEPARTMENT OF ENGINEERING, PLANS FOR SUBSTRUCTURE - CHINA BASIN TERMINAL, PILING AND FOUNDATION PLAN", DATED OCTOBER 26, 1921, DRAWING 4043-15, SHEET 3 OF 9, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE ALONG SAID FACE OF WALL NORTH 24° 23' 38" WEST 5 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL NORTH 20° 36' 22" EAST 7 FEET PLUS OR MINUS TO ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL (SAID WALL CONSISTING OF NUMEROUS ARCHES) GENERALLY NORTH 65° 36' 22" EAST 795 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL SOUTH 24° 23' 38" EAST 18 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL NORTH 65° 36' 22" EAST 95 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL NORTH 24° 23' 38" WEST 57 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL NORTH 88° 42' 44" EAST 35 PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL NORTH 42° 50' 42" EAST 8 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL 3° 01' 20" WEST 20 FEET PLUS OR MINUS TO THE SOUTHEASTERLY PROLONGATION OF THE NORTHEASTERLY LINE OF SECOND STREET; THENCE ALONG SAID PROLONGATION SOUTH 43° 41' 53" EAST 73 FEET PLUS OR MINUS TO A POINT DISTANT ALONG SAID PROLONGATION SOUTH 43° 41' 53" EAST 523.369 FEET FROM THE SOUTHEASTERLY LINE OF BERRY STREET; THENCE SOUTH 65° 36' 22" WEST 962.573 FEET TO THE NORTHEASTERLY LINE OF THIRD STREET; THENCE ALONG SAID LINE OF THIRD STREET 43° 41' 53" WEST 12 FEET PLUS OR MINUS TO THE TRUE POINT OF BEGINNING.

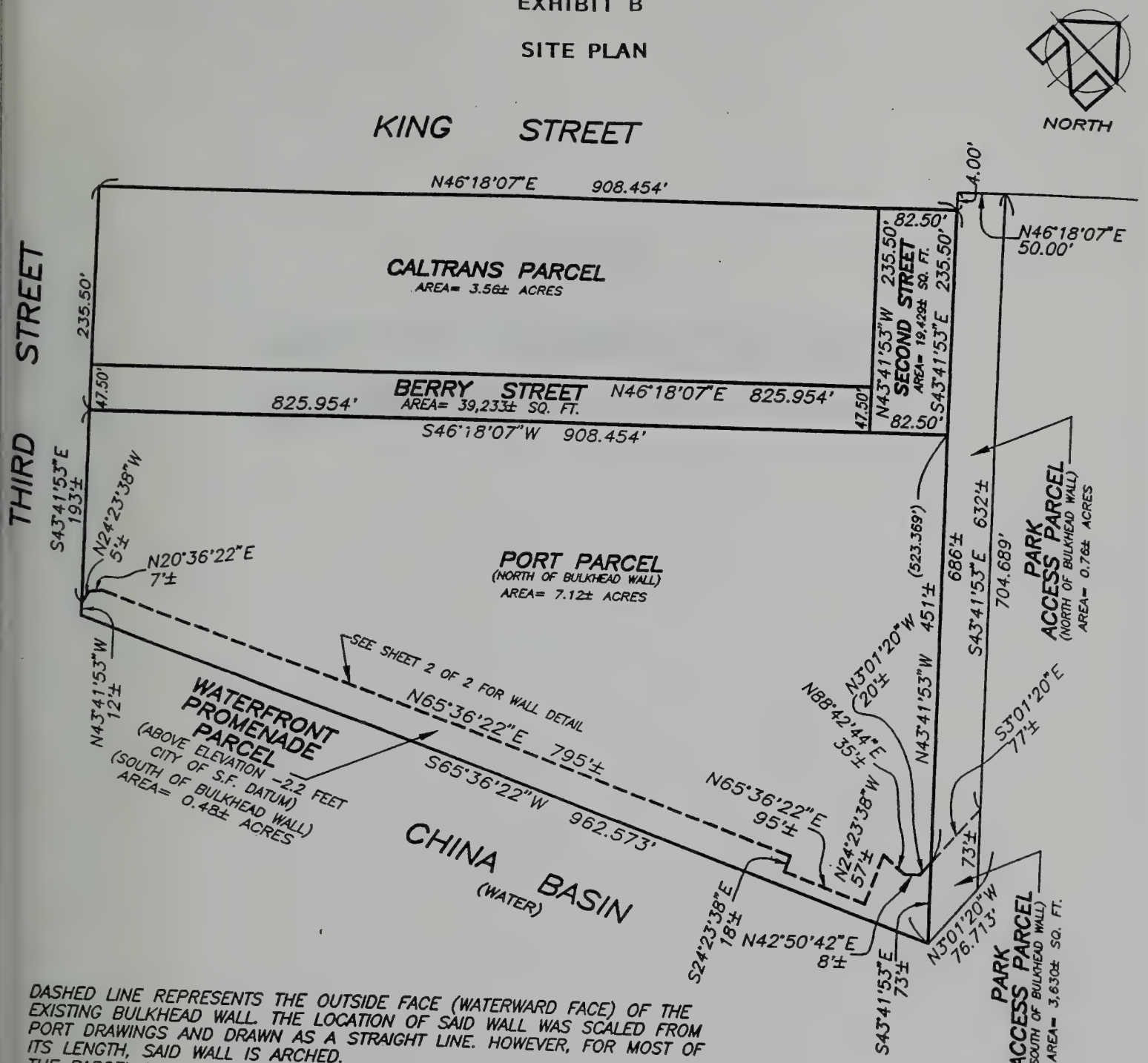
EXCEPTING THEREFROM ALL SUBSURFACE MINERAL DEPOSITS, INCLUDING OIL AND GAS DEPOSITS, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS ON SAID LAND FOR EXPLORATION, DRILLING AND EXTRACTION OF SUCH MINERAL, OIL AND GAS DEPOSITS, AS EXCEPTED AND RESERVED BY THE STATE OF CALIFORNIA IN CHAPTERS 1333, STATUTES 1968 AND AMENDMENTS THERETO, AND UPON THE TERMS AND PROVISIONS SET FORTH THEREIN.

EXHIBIT B

SITE PLAN

EXHIBIT B

SITE PLAN



DASHED LINE REPRESENTS THE OUTSIDE FACE (WATERWARD FACE) OF THE EXISTING BULKHEAD WALL. THE LOCATION OF SAID WALL WAS SCALED FROM PORT DRAWINGS AND DRAWN AS A STRAIGHT LINE. HOWEVER, FOR MOST OF ITS LENGTH, SAID WALL IS ARCHED.
THE PARCEL LINE IS TO FOLLOW THE OUTSIDE FACE OF WALL WHETHER STRAIGHT OR ARCHED. FOR PLAN LOCATION OF SAID WALL SEE "BOARD OF STATE HARBOR COMMISSIONERS, STATE DEPARTMENT OF ENGINEERING, PLANS FOR SUBSTRUCTURE- CHINA BASIN TERMINAL PILING AND FOUNDATION PLAN, DRAWING 4043-15, SHEET 3 OF 9".

SUBJECT: PACIFIC BELL PARK

BY: JP CHKD.: BR DATE: 7-9-97 SCALE: NONE SHEET: 1 OF 1 JOB NO.: S-3422

MARTIN M. RON ASSOCIATES, INC.
LAND SURVEYORS

501 SECOND STREET
SAN FRANCISCO, CA. 94107
(415) 543-4500

EXHIBIT C

EXAMPLE OF CPI ADJUSTMENTS TO MINIMUM RENT

(ATTACHMENT TO BE ENCLOSED AT EXECUTION)

EXHIBIT D

PERMITTED TITLE EXCEPTIONS

EXHIBIT D

PERMITTED TITLE EXCEPTIONS

1. GENERAL AND SPECIAL COUNTY AND CITY TAXES FOR THE FISCAL YEAR 1997-98, A LIEN NOT YET DUE OR PAYABLE: NOT CURRENTLY ASSESSED.

2. THE LIEN OF SUPPLEMENTAL TAXES, IF ANY, ASSESSED PURSUANT TO THE PROVISIONS OF CHAPTER 3.5, REVENUE AND TAXATION CODE, SECTIONS 75 ET SEQ.WHICH TAXES MAY ARISE ON TRANSFER OF TITLE FROM AN EXEMPT PARTY TO A NON-EXEMPT PARTY.

3. THE HEREIN DESCRIBED PROPERTY LIES WITHIN THE BOUNDARIES OF A MELLO-ROOS COMMUNITY FACILITIES DISTRICT, AS FOLLOWS:

CFD NO.	:	90-1
FOR	:	SCHOOL FACILITY REPAIR AND MAINTENANCE
DISCLOSED BY	:	NOTICE OF SPECIAL TAX LIEN RECORDED JULY 5, 1990, IN BOOK F160, PAGE 1044, OFFICIAL RECORDS OF THE CITY AND COUNTY OF SAN FRANCISCO

NOT CURRENTLY ASSESSED

4. RIGHTS AND EASEMENTS FOR COMMERCE, NAVIGATION AND FISHERIES.

AFFECTS: LAND LYING SOUTHERLY OF AN EXISTING BULKHEAD WALL, (WATERLY FACE) AS SAID WALL IS SHOWN ON THAT CERTAIN DRAWNG ENTITLED "BOARD OF STATE HARBOR COMMISSIONERS, STATE DEPARTMENT OF ENGINEERING, PLANS FOR SUBSTRUCTURE - CHINA BASIN TERMINAL, PILING AND FOUNDATION PLAN," DATED OCTOBER 26, 1921, DRAWING 4043-15, SHEET 3 OF 9.

5. CONDITIONS, RESTRICTIONS, EASEMENTS, RESERVATIONS AND LIMITATIONS AND RIGHTS, POWER, DUTIES AND TRUSTS CONTAINED IN THE LEGISLATIVE GRANTS, AS TO THE LAND OR ANY PORTION THEREOF, ACQUIRED BY THE CITY AND COUNTY OF SAN FRANCISCO, BY CHAPTER 1333 OF THE STATUTES OF 1968, AS AMENDED BY CHAPTERS 1296 AND 1400, STATUTES OF 1969, AND BY CHAPTER 670, STATUTES OF 1970, AND CHAPTER 1253, STATUTES OF 1971, AND AS MAY BE FURTHER AMENDED, AND SUCH REVERSIONARY RIGHTS AND OTHER RIGHTS AND INTERESTS AS MAY BE POSSESSED BY THE STATE OF CALIFORNIA UNDER THE TERMS AND PROVISIONS OF SAID LEGISLATIVE GRANTS.

6. "AGREEMENT RELATING TO THE TRANSFER OF THE PORT OF SAN FRANCISCO FROM THE STATE OF CALIFORNIA TO THE CITY AND COUNTY OF SAN FRANCISCO" EXECUTED BY AND BETWEEN THE CITY AND COUNTY OF SAN FRANCISCO AND THE DIRECTOR OF FINANCE OF THE STATE OF CALIFORNIA AND THE SAN FRANCISCO PORT AUTHORITY RECORDED JANUARY 30, 1969, IN BOOK B308 OF OFFICIAL RECORDS, PAGE 686, INCLUSIVE, INSTRUMENT NO. R40413.

7. MAP ENTITLED "MAP OF LANDS TRANSFERRED IN TRUST TO THE CITY AND COUNTY OF SAN FRANCISCO" SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA FILED IN BOOK "W" OF MAPS AT PAGES 66 THROUGH 72 IN THE CITY AND COUNTY OF SAN FRANCISCO RECORDER'S OFFICE, A COPY OF WHICH WAS RECORDED MAY 14, 1976 IN OFFICIAL RECORDS OF CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, INSTRUMENT NO. Y88209.

8. PREMISES LIES WITHIN THE BOUNDS OF RINCON POINT-SOUTH BEACH REDEVELOPMENT PLAN APPROVED BY THE CITY AND COUNTY OF SAN FRANCISCO ACTING THROUGH ITS BOARD OF SUPERVISORS BY ORDINANCE NO. 14-81, ADOPTED JANUARY 5, 1981, AS AMENDED BY ORDINANCE NO. 50-84, ADOPTED JANUARY 23, 1984, AS AMENDED BY ORDINANCE NO. 405-91, ADOPTED NOVEMBER 25, 1991, AS AMENDED BY ORDINANCE NO. 137-92, ADOPTED MAY 11, 1992, AS AMENDED BY ORDINANCE NO. 270-92, ADOPTED AUGUST 10, 1992, AS AMENDED BY ORDINANCE NO. 430-94, ADOPTED DECEMBER 12, 1994, PROVIDING FOR THE CLEARANCE AND DEVELOPMENT OR RELOCATION OF CERTAIN LANDS IN THE PROJECT AREA AND THE FUTURE USES OF SUCH LAND.

   A STATEMENT THAT REDEVELOPMENT PLANS WERE INSTITUTED WAS RECORDED JANUARY 16, 1981, INSTRUMENT NO. D49089 IN BOOK D136, PAGE 29 OFFICIAL RECORDS.

   THE REDEVELOPMENT PLAN AND AMENDMENTS HAVE BEEN FILED FOR RECORD IN THE RECORDER'S OFFICE AS DOCUMENT NO. D060006 ON FEBRUARY 23, 1981; DOCUMENT NO. D478602 ON MARCH 29, 1984; DOCUMENT NO. F109621 ON APRIL 28, 1992, AND DOCUMENT NO. F237134 ON NOVEMBER 3, 1992, AND DOCUMENT NO. F816263 ON JULY 17, 1995.

   ORDINANCE NO. 276-97 WHICH, AMONG OTHER MATTERS, AUTHORIZES THE LAND DESCRIBED HEREIN TO BE PART OF THE REDEVELOPMENT PROJECT AREA.

9. DEED RESTRICTIONS PURSUANT TO SECTION 3.06 (F) OF THE LEASE DISPOSITION AND DEVELOPMENT AGREEMENT.

10. PUBLIC ACCESS AGREEMENT, IF ANY, PURSUANT TO SECTION 3.05 (B) OF THE LEASE DISPOSITION AND DEVELOPMENT AGREEMENT.

11. MATTERS WHICH MAY BE DISCLOSED BY A SURVEY TO BE PREPARED BY MARTIN M. RON ASSOCIATES, INC., LAND SURVEYORS WHICH ARE NOT INCONSISTENT WITH OTHER PERMITTED TITLE EXCEPTIONS AND WITH THE OBLIGATIONS OF THE PARTIES UNDER THE LEASE DISPOSITION AND DEVELOPMENT AGREEMENT AND THE GROUND LEASE.

EXHIBIT E

MITIGATION MEASURES

EXHIBIT E

MITIGATION MEASURES

The Port has adopted findings pursuant to the California Environmental Quality Act ("CEQA") in connection with the approval of this Lease under Port Commission Resolution No._____. These findings include mitigation measures which will be implemented and monitored by the Port and other agencies pursuant to the mitigation monitoring program adopted by the Port. This Exhibit E contains those mitigation measures or portions thereof which involve ongoing operation of the Ballpark and other Improvements and over which Tenant has sole or shared responsibility for implementation. Certain measures have been modified to reflect only the portion of the measure which is within Tenant's responsibility. The numbering system below corresponds to the system used in the mitigation monitoring program.

B1. BALLPARK TRANSPORTATION COORDINATION COMMITTEE

Cooperate with the Ballpark Transportation Coordinating Committee (BTCC) which will be formed to implement and monitor the operation of the transportation mitigation program. Tenant shall appoint a transportation coordinator to be a member of BTCC.

B2. TRANSPORTATION MANAGEMENT PLAN

Prepare and submit a draft Transportation Management Plan (TMP) to the BTCC, and participate on an ongoing basis in the BTCC's efforts to implement and monitor the TMP and refine it as appropriate.

B3. TRAFFIC ROUTING PLAN

Participate in the BTCC's effort to adopt and implement as part of the TMP a Traffic Routing Plan, comparable to that identified and analyzed in the EIR, including, without limitation, the following measures: (1) post parking attendants on Third Street north of Fourth Street and on Fourth Street near Third Street to form an entrance to the designated ballpark parking area before a game; and (2) work with property owners and tenants (e.g., Mission Bay Golf Center) along Channel Street, Owens Street, and China Basin Street between Fourth Street and Sixteenth Street to manage ballpark traffic between the Giants ballpark parking lots and Sixteenth Street.

B5. FERRY SERVICE PROVISION AND STUDY PARTICIPATION

Participate in the public-private partnership of major Bay Area governmental agencies and ferry service providers, including BCDC, MTC, the Bay Area Council, BADCAT/BAEF, GGNRA, the US Park Service, Caltrans, the Golden Gate Bridge District, AC Transit, the Port of Oakland, and the Blue and Gold Fleet and other public and private ferry operators, which is currently proposing to undertake a study of the feasibility of an expanded Regional Ferry Transportation System. At the conclusion of the study, make good faith

efforts to assist in implementing feasible study recommendations relating to ballpark ferry service. At that time, also undertake measures to enhance the attractiveness of ferry service as a mode of transportation for ballpark events.

B7. TRANSIT INCENTIVE PROGRAM

Develop and implement a program for the ballpark that encourages transit use and other alternative modes of travel to the Ballpark. This program shall be designed and implemented prior to the opening of the Ballpark and shall continue on an ongoing basis. The purpose of the transit incentive program shall be to develop strategies to reduce ballpark parking demand through education, marketing and incentives. Such measures may include charging for parking in the dedicated lots, concession discounts to fans who show evidence of riding on transit or ballpark shuttles, and an informational campaign regarding transit schedules, availability and convenience. Ballpark parking should be priced at a relatively high level, to encourage transit use.

B8. TRANSPORTATION DEMAND MANAGEMENT

Develop a transportation demand management (TDM) plan for employees and concessionaires. The plan could include, for example, providing employees and concessionaires with free or subsidized transit passes to encourage transit use and reduce parking impacts.

B9. PUBLIC INFORMATION/OUTREACH PROGRAMS

Develop public information/outreach programs that shall include the following types of actions:

- Work with transit and private parking operators and game ticket distributors to offer transit and parking passes when fans purchase tickets.
- Consider scheduling some weekday afternoon games for a late 3:30 - 4:00 p.m. start time.
- Develop a brochure, information packet, and/or Internet web page providing full information about ballpark travel options.

B10. MOTORIST INFORMATION SYSTEM (MIS)

Develop an MIS program to provide motorists and all travelers to and from the ballpark with real-time information about traffic, parking, and transit before and after games. It could include the following types of measures:

- Use existing sports and news oriented radio stations to broadcast travel conditions.
- Establish a cellular phone hot-line which provides up-to-date travel information.

- Participate in the ongoing Bay Area TravInfo system which provides up-to-date travel data to participants. TravInfo is a program sponsored by the Metropolitan Transportation Commission and Caltrans to provide travelers with access to accurate, real-time information regarding travel conditions.

- Implement a low-frequency radio station(s) to provide motorists with traffic and parking information in the vicinity of the ballpark.

B11. SPECIAL EVENTS

Implement elements of the TMP, as appropriate and as recommended by BTCC, for Other Events. Notify the BTCC of any large, special events designed for more than 42,000 spectators and submit a special transportation plan to the committee defining the measures to be implemented in order to mitigate the impacts of the event which might go beyond those of a normal sellout ballgame.

B12. FACILITATE AND ACCOMMODATE MUNI METRO EXTENSION

B12A. Operational Measures

- Work with MUNI to provide MUNI ticket dispensing machines in the ballpark so that fans can purchase them during games.

B15. LEFTY O'DOUL BRIDGE SURFACE COVERING

Before and after ballgames, provide a temporary surface to cover the parts of the bridge used by pedestrians with a material more amenable to walking.

C1. CONCERT NOISE

All concerts at the ballpark featuring live amplified music shall comply with all applicable laws, including but not limited to the San Francisco Police Code. With the exception of five (5) concerts per year, the following additional restrictions on noise shall apply: perform a sound test, and on the basis of this test, establish a limit on music noise in the Ballpark that would result in increases in exterior noise at representative residential receptors in the adjoining neighborhood of no greater than 3 decibels above the then-existing ambient hourly average (L_{eq}) noise levels at those receptor locations.

E1. EMERGENCY EVACUATION PLANNING

Develop an Evacuation Plan for the Ballpark for use in the event of an emergency situation which necessitated partial or complete evacuation of the facility.

F7. LITTER CONTROL

Prevent litter generated by waterfront areas associated with the Ballpark from entering China Basin Channel by the placement of trash receptacles, regular collection of trash, public notices, and regular skimming of the surface of China Basin Channel. Trash receptacles shall be conveniently placed and widely available for public use along the Portwalk. Receptacles shall be emptied regularly and trash picked up regularly so overflows of garbage in those areas are minimized. Trash collection shall occur before and after games, and as needed during non-game times. Specific maintenance staff shall be assigned to perform trash collection along the Portwalk. Signs or warnings shall be posted along the Portwalk to encourage users of the ballpark to dispose of litter properly.

Provide for skimming of the Channel edges east of the Lefty O'Doul Bridge at frequent and regular intervals. Because floating litter tends to drift, skimming would be needed along the entire length of the Channel and at the mouth of the Channel.

EXHIBIT F

IMPROVEMENT MEASURES

EXHIBIT F

IMPROVEMENT MEASURES

Lighting

1. Tenant shall turn off the primary sports lights within a reasonable time after the public has exited the Ballpark following night games and other nighttime events. Thereafter, lighting shall be limited to the minimum reasonably necessary for clean-up of the Ballpark.

2. The Pacific Bell Park sign facing South Beach Park shall be indirectly or diffusely illuminated. Prior to permanent installation and lighting of the signage, testing of the brightness and intensity of illumination shall be performed to insure glare is reduced.

3. Tenant shall test the installed field-lighting system prior to opening the ballpark to ensure that lighting meets operating requirements in the ballpark and minimizes obtrusive spill lighting in the ballpark vicinity. Testing would include light-meter measurements at selected locations in the ballpark vicinity, to measure spill lighting from ballpark field-lighting fixtures, and permit adjustment of lighting fixtures.

Surrounding Land Uses

Tenant shall participate with the Rincon Point-South Beach Citizen's Advisory Committee (the "CAC"), the City and/or the Redevelopment Agency in an effort to develop an appropriate land use plan and zoning controls for the retail uses in the area around the Ballpark.

Parking

1. Tenant shall cooperate with the Ballpark Transportation Coordination Committee to consider (i) institution of residential preferential parking in the South Beach and South Park neighborhoods, extended to include evening hours when there are evening events at the Ballpark, and (ii) installation of programmable parking meters in areas near the Ballpark necessary to serve neighborhood businesses.

2. Tenant shall participate with the BTCC in the development and implementation of a parking monitoring program during the initial five years of operation. The parking monitoring program would be designed to determine the total parking demand generated by the ballpark based on actual use of the ballpark parking, including overflow parking north and south of China Basin Channel. The purpose of the program would be to maximize opportunities for use of existing parking, minimize overflow parking conditions, and develop a long-term plan for permanent parking (which shall avoid locating any permanent parking on piers). The parking monitoring results should be submitted to the San Francisco Department of Parking and Traffic for review at the end of each baseball season. The

long-term parking plan may include such elements as: procurement of parking in public and private garages in the area that are currently closed on weekends and evenings but could remain open on game days; provision of parking spaces that would be available to Giants fans on weekends, particularly on Saturdays, within the area north of China Basin Channel; and provision of parking in parking garages north of Market Street which are closed or under-utilized on weekends and week nights to provide satellite parking for Giants fans with a shuttle to and from the Ballpark.

3. Provide a minimum of 150 secure bike parking spaces with the flexibility to accommodate up to 250. This could be a fenced area watched by an attendant or security guard in the parking lot immediately south of China Basin Channel as close to the Lefty O'Doul (Third Street) Bridge as possible.

Neighborhood

Tenant shall appoint a community liaison officer(s) who shall be the primary contact person to address any neighborhood complaints regarding the operation of the Ballpark. The Community Liaison Officer(s) shall be available by telephone or pager during Baseball Home Games and Other Events, and immediately before and after such events. The Community Liaison Officer(s) will work with interested neighborhood groups to respond to complaints and establish appropriate operating procedures, including sound levels in the Ballpark public address system and exterior speakers and limitations on fireworks so that noise from these systems and from fireworks in the adjacent residential neighborhood does not exceed acceptable levels.

Concerts and Others Events

1. All open air live musical performances or concerts involving amplified music or other events where the entertainment may involve similar noise impacts, such as motocross racing (collectively, "Outdoor Concerts") which are separately ticketed from a baseball game shall require a separate permit from the Port Commission or its designee following notice to the CAC or other designated neighborhood organization, which notice shall be at least twenty (20) days before the permit for such event may be issued.

2. If Tenant is to conduct musical performances or concerts within an enclosed amphitheater with a fabric roof, Tenant shall establish appropriate roof design and operational criteria to prevent noise impacts on nearest residential uses from exceeding 3 dBA (hourly L_{eq}) over then-existing ambient noise levels.

3. All Outdoor Concerts shall conclude by 11:00 p.m.

4. All Other Events shall be scheduled so that such events do not begin or end at times which will cause overlap with peak hour traffic conditions, from 4:30 p.m. to 5:30 p.m. on weekdays.

Freight Loading Improvement Measures

1. Limit large truck operations on game days to the time periods well before and after games.

2. Develop a plan for large truck loading and deliveries at the Pavilion Building to avoid conflict with traffic, which plan could include prohibition of left hand turns from Third Street.

Emergency Response Plan

Tenant shall prepare an Emergency Response Plan to address preparation for, and implementation of measures during, any emergency event. The Emergency Response Plan will include emergency response and preparedness measures such as those included in the Waterfront Land Use Plan mitigation measures, as appropriate for the Project.

Litter

Tenant shall remove from South Beach Park, including the adjacent marina facilities, all debris and refuse resulting from use of the Site within twelve (12) hours of the conclusion of Baseball Home Games or Other Events. Alternatively, upon the mutual agreement of Tenant and the San Francisco Redevelopment Agency, Tenant shall contribute to the Redevelopment Agency an amount adequate to cover the incremental cost incurred by the Redevelopment Agency in performing such removal.

Traffic Control/Command Center

A traffic control/command center (approximately 250 square feet in area) shall be included in the Project and made available to the City rent-free if the City notifies Tenant by the date eighteen (18) months following commencement of construction of the Initial Improvements under the DDA of the City's intent to use the space for such purposes. Conduit for appropriately sized cables (as reasonably specified by the City) shall be installed by Tenant to link the traffic control/command center to a junction box in an adjacent street location to be reasonably determined by the City.

EXHIBIT G

SIGN GUIDELINES

EXHIBIT G

SIGN GUIDELINES

The following are the Sign Guidelines ("Guidelines") for review and approval of signs and murals for Pacific Bell Park. These Guidelines shall apply to Pacific Bell Park in lieu of the Port of San Francisco Guidelines for Review and Approval of Signs and Murals.

I. Application of Guidelines and Exemptions.

A. Port Sign Committee Review and Approval. No person shall place or erect any sign or mural that is subject to these Guidelines on the Pacific Bell Park Project site ("Site") without first obtaining review and approval by the Port Sign Committee in accordance with these Guidelines. The Port Sign Committee shall be comprised of Port staff with expertise and experience in architecture, urban design, landscape architecture, planning, commercial property management or other similar backgrounds.

B. Application. Except as specifically exempted in Section I.C. hereof, these Guidelines shall apply to all permanent and temporary signs installed on the Site which are visible from public streets, sidewalks, waterways or from the air, except that signs within the interior of the ballpark which are designed or intended to be primarily visible from the inside of the ballpark shall not be subject to review or approval. Any treatment or lighting of the back of the scoreboard shall be subject to Port permit approval.

C. Exemptions. This Guidelines shall not apply to the following:

1. Legally required posters, notices or signs.

2. International, national, state, city, county (or other political subdivision) flags, maritime house flags or sports-themed flags.

3. Port, City, or State-installed signs, such as traffic or directional signs.

II. Permit Submittal and Review Process.

A. The following procedures shall be applicable for the review of all proposed signs that are subject to these Guidelines:

1. Applications for Port Sign Committee review shall be submitted on Port Building Permit Application Forms and shall include detailed specifications and drawings as follows:

a. Building Site Plan, drawn to scale, and showing:

(1) Location of proposed sign.

(2) Location of existing landscaping.

(3) Location of existing adjacent signs that are to remain in place.

b. Exterior elevation drawings, drawn to scale, of the relevant portion of the ballpark or landscape features, showing location of existing adjacent signs to remain and the proposed sign.

c. Details of sign, drawn to scale, which include:

(1) Sign dimensions.

(2) Plan view.

(3) Elevation view.

(4) Colors. A sample of each proposed to be used must be submitted for review and approval.

(5) Materials. Material samples may be required.

(6) Letter size and type style.

(7) Lighting or illumination.

(8) Content of sign including exact wording and other design features.

(9) Name, address and telephone number of manufacturer as well as manufacturer's specifications, as applicable.

(10) All structural details, which shall comply with the San Francisco Building Code.

(11) All electrical details, which shall comply with the San Francisco Electrical Code. Provide UL Labels where applicable.

d. Photograph of the relevant portion of the ballpark, marked to show proposed sign location.

e. The application fees required shall be as listed in the San Francisco Building Code.

2. After receipt of a completed application, together with all supporting documentation, the Port Sign Committee shall review the application in accordance with the Port's Waterfront Design and Access Plan, and also in accordance with the following considerations:

a. The design of a sign shall be compatible with the architectural design of the ballpark.

b. The Site is a major public gathering point, along the waterfront, adjacent to existing uses. The nature and quality of the signage shall be designed in consideration of these site characteristics, including the architectural character of any adjoining improvements.

c. The sign shall be of appropriate proportion and scale in relation to the ballpark structure.

3. The Port Sign Committee, upon review of an application, may approve, conditionally approve, or deny such application based on consistency of the sign with the criteria set forth in Section II.A.2 hereof.

a. In those instances where the Port Sign Committee has denied an application, the Committee shall inform the applicant, in writing, why the application has been denied based on the criteria set forth in Section II.A.2. The denial shall be issued within fifteen (15) business days of receipt of an application.

b. The applicant may resubmit a revised application addressing the deficiencies which lead to the denial of the application or may appeal the Port Sign Committee's decision to the Port Executive Director or his/her designee. The appeal must be in writing and must the state the reasons why the application should be approved. The determination of the Director or his/her designee shall be final and shall made within fifteen (15) business days of receipt of the written appeal.

4. The Port Sign Committee may recommend review by the Port's Design Review Committee, if it determines that the sign may have significant implications for the urban design of the waterfront setting. The review is coordinated by the Port's Planning and Development Division.

III. Temporary Signs and Banners.

In addition to the permanent signage permitted herein, temporary signs may be permitted as described below. With the exception of construction signs described in Section C below, temporary signs will be permitted for a two-week period, with additional two-week extensions possible. Each extension will require additional approval by the Port Sign Committee.

A. Signs Noticing Events including public events, events related to baseball or other events at the facility which are removed immediately after the event has taken place.

B. Signs in Anticipation of Permanent Signs for businesses which are open to the public prior to delivery of a permanent sign.

C. Construction Signs. Construction signs for a construction project announcing that the project is under construction or stating the names and addresses of those individuals or firms directly connected with the design or construction project and/or the name of the ultimate user.

IV. Murals.

Murals or extensive paint treatments applied or affixed to the exterior of a building shall require a Port permit.

The Port Sign Committee may recommend that the design be reviewed by the Port's Design Advisors pursuant to Section II.4.

V. Prohibited Signs and Advertising.

The following signs and advertising are prohibited on Port property:

A. Portable Signs, such as sandwich boards, except portable signs for intermittent uses, subject to Port permit approval.

B. Wind Signs, Revolving Signs, Reflecting Signs, Blinking Signs, Balloon Signs and Other Tethered Signs. This shall not include moving message signs, which are permitted at ballpark entrances, subject to Port permit approval.

C. General Advertising Signs. General advertising signs not directly advertising the business or person locating at or on the premises on which the sign is proposed shall not be permitted on the Site, unless authorized by the Port Executive Director.

VI. Signage Restrictions.

A. Sign Area.

1. The permitted area of signs shall be determined on a case-by-case basis, taking into consideration other signage on the Site and the proposed location, dimension, and scale of the sign.

B. Sign Height and Projection From the Face of the Building.

1. No roof signs shall be permitted.

2. Signs attached to buildings or structures shall project out from the face of the building no more than two inches when the lowest part of the sign is seven feet or less above the grade directly below the sign.

C. Sign Location.

1. Signs will not be permitted on or over public sidewalks unless a sidewalk encroachment permit or similar agreement is obtained from the Port and such signs are approved by the Port Sign Committee.

2. When feasible and consistent with operational considerations, signs should be affixed to buildings or structures.

D. Illumination.

1. Use of high-intensity, unshielded or undiffused lights shall not be permitted.

2. No electrical or illuminated signs shall blink or be intermittently lighted.

VII. Maintenance; Removal of Signs.

A. The owner of any sign shall maintain the sign in a sound and safe condition and so that the sign does not become unsightly. The Port Sign Committee, upon notice, may revoke the permit for any sign which is not so maintained.

B. A sign which no longer serves the purpose or the establishment for which the sign was originally permitted must be removed by the sign owner and the removal area restored to the original condition prior to the installation of the sign. This must be done within fifteen days after the discontinuance or abandonment of the use or premises.

VIII. Abatement of Non-Conforming Signs.

A. Any sign on the Site which does not conform to these Guidelines or which is erected without Port Sign Committee review and a Port Building Permit or is hereafter erected or constructed in violation of the requirements of these Guidelines shall be considered a non-conforming sign.

B. The Port may declare any non-conforming sign to be a public nuisance and may require the sign owner to remove the sign upon notification by the Port. If not removed as requested, the Port may remove the non-conforming sign at the sign owner's expense.

IX. Variance Procedure.

A. Applications for variances from these Guidelines shall be made in writing to the Port Sign Committee. The Applicant shall submit a detailed explanation why the specific Guidelines challenged should not apply.

B. To grant a variance, the Port Sign Committee must make all of the following findings:

1. The proposed sign will be in harmony with the general purpose and intent of these Guidelines; and

2. That there are exceptional or extraordinary circumstances applying to the sign application involved that did not apply generally to other similar uses or property; and

3. That owing to exceptional or extraordinary circumstances, the literal enforcement of specific provisions of these Guidelines would result in practical difficulty or unnecessary hardship not created by or attributable to the applicant.

C. In those instances where the Port Sign Committee has denied a variance application, the Committee shall inform the applicant, in writing, why the application has been denied, within fifteen (15) business days of receipt of a variance application.

D. The applicant may resubmit a revised application addressing deficiencies which lead to the denial of the variance, or may appeal the Port Sign Committee's decision to the Port Executive Director or his/her designee. The appeal must be in writing and must state the reasons why the variance should be approved. The determination of the Director or his/her designee shall be final, and shall be made within fifteen (15) business days of receipt of a revised application.

X. Penalties.

A. No signs shall be place, erected or constructed without first obtaining a Port Sign Committee approval and a building permit from the Port. Any sign installed at a site or building on the Site for which approval and a permit have not first been obtained shall constitute a violation of the San Francisco Building Code as described in Section 205 therein. Penalties for any such violation shall be as provided in Section 205 as amended from time to time.

EXHIBIT H

PREVAILING WAGE PROVISIONS
(LABOR STANDARDS)

EXHIBIT H

PREVAILING WAGE PROVISIONS
(LABOR STANDARDS)

1.01 **Applicability.** These Prevailing Wage Provisions (hereinafter referred to as "Labor Standards") apply to any and all Subsequent Construction as defined in the Ground Lease ("Lease") between China Basin Ballpark Company LLC ("Tenant") and the Port of which this Exhibit and these Labor Standards are a part.

1.02 **All Contract and Subcontracts shall contain the Labor Standards. Confirmation by Construction Lender.**

(a) All specifications relating to Subsequent Construction shall contain these Labor Standards and Tenant shall have the responsibility to assure that all contracts and subcontracts, regardless of tier, incorporate by reference the specifications containing these Labor Standards. If for any reason said Labor Standards are not included, the Labor Standards shall nevertheless apply. Tenant shall maintain for inspection by the Port true copies of each contract relating to Subsequent Construction showing the specifications that contain these Labor Standards promptly after due and complete execution thereof. Failure to do shall be a violation of these Labor Standards.

1.03 **Definitions.** The following definitions shall apply for purposes of this Exhibit. All terms used herein and not otherwise defined shall have the same meaning as the same term in the Lease and Lease.

(a) "Contractor" is the developer if permitted by law to act as a contractor, the general contractor, and any contractor as well as any subcontractor of any tier subcontractor having a contract or subcontract that exceeds $10,000, and who employs Laborers, Mechanics, Working Foremen, and security guards to perform the construction on all or any part of the Improvements.

(b) "Laborers" and "Mechanics" are all persons providing labor to perform the construction, including Working Foremen and security guards.

(c) "Working Foreman" is a person who, in addition to performing supervisory duties, performs the work of a Laborer or Mechanic during a least 20 percent of the work week.

1.04 **Prevailing Wage.**

(a) All Laborers and Mechanics employed in Subsequent Construction will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by section 1.05) the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at the time of payment computed at rates not less than those contained in the General Prevailing Wage Determination (hereinafter referred to as the "Wage Determination") made by the Director of Industrial Relations pursuant to California Labor Code Part 7, Chapter 1, Article 2, Sections 1770, 1773 and 1773.1, regardless of any contractual relationship which may be alleged to exist between the Contractor and such Laborers and Mechanics. A copy of the applicable Wage Determination is on file in the offices of the Port with the Chief Building Inspector. At the time of the Close of Escrow the Port shall provide Tenant with a copy of the applicable Wage Determination.

All Laborers and Mechanics shall be paid the appropriate wage rate and fringe benefits for the classification of work actually performed, without regard to skill. Laborers or Mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein provided that the Contractor's payroll records accurately set forth the time spent in each classification in which work is performed.

(b) Whenever the wage rate prescribed in the Wage Determination for a class of Laborers or Mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractors shall either pay the benefit in the manner as stated therein i.e. the vacation plan, the health benefit program, the pension plan and the apprenticeship program, or shall pay an hourly cash equivalent thereof.

(c) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or Mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program of a type expressly listed in the Wage Determination, provided that the Executive Director of the Port has found, upon the written request of the Contractor, made through Tenant that the intent of the Labor Standards has been met. Records of such costs shall be maintained in the manner set forth in subsection (a) of section 1.08. The Executive Director of the Port may require Tenant to set aside in a separate interest bearing account with a member of the Federal Deposit Insurance Corporation, assets for the meeting of obligations under the plan or

program referred to above in subsection (b) of this section 1.04. The interest shall be accumulated and shall be paid as determined by the Port acting at its sole discretion.

(d) Regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

(e) The responsibility for compliance with Section 1776 of the California Labor Code shall be on the Contractor.

1.05 **Permissible Payroll Deductions.** The following payroll deductions are permissible deductions. Any others require the approval of the Port's Executive Director.

(a) Any withholding made in compliance with the requirements of Federal, State or local income tax laws, and the Federal social security tax.

(b) Any repayment of sums previously advanced to the employee as a bona fide prepayment of wages when such prepayment is made without discount or interest. A "bona fide prepayment of wages" is considered to have been made only when cash or its equivalent has been advanced to the employee in such manner as to give him or her complete freedom of disposition of the advanced funds.

(c) Any garnishment, unless it is in favor of the Contractor (or any affiliated person or entity), or when collusion or collaboration exists.

(d) Any contribution on behalf of the employee, to funds established by the Contractor, representatives of employees or both, for the purpose of providing from principal, income or both, medical or hospital care, pensions or annuities on retirement, death benefits, compensation for injuries, illness, accidents, sickness or disability, or for insurance to provide any of the foregoing, or unemployment benefits, vacation pay, savings accounts or similar payments for the benefit of employees, their families and dependents provided, however, that the following standards are met:

1. The deduction is not otherwise prohibited by law; and

2. It is either:

   a. Voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and

such consent is not a condition either for obtaining or for the continuation of employment, or

b. Provided for in a bona fide collective bargaining Lease between the Contractor and representatives of its employees; and

3. No profit or other benefit is otherwise obtained, directly or indirectly, by the Contractor (or any affiliated person or entity) in the form of commission, dividend or otherwise; and

4. The deduction shall serve the convenience and interest of the employee.

(e) Any authorized purchase of United States Savings Bonds for the employee.

(f) Any voluntarily authorized repayment of loans from or the purchase of shares in credit unions organized and operated in accordance with Federal and State credit union statutes.

(g) Any contribution voluntarily authorized by the employee for the American Red Cross, United Way and similar charitable organizations.

(h) Any payment of regular union initiation fees and membership dues, but not including fines or special assessments provided, that a collective bargaining Lease between the Contractor and representatives of its employees provides for such payment and the deductions are not otherwise prohibited by law.

1.06 **Apprentices and Trainees.** Apprentices and trainees will be permitted to work at less than the Mechanic's rate for the work they perform when they are employed pursuant to and are individually registered in an apprenticeship or trainee program approved by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training ("BAT") or with the California Department of Industrial Relations, Division of Apprenticeship Standards ("DAS") or if a person is employed in his or her first 90 days of probationary employment as an apprentice or trainee in such a program, who is not individually registered in the program, but who has been certified by BAT or DAS to be eligible for probationary employment. Any employee listed on a payroll at an apprentice or trainee wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate for a Mechanic. Every apprentice or trainee must be paid at not less than the rate specified in the registered program for the employee's level of progress, expressed as a percentage of a Mechanics' hourly rate as specified in the Wage Determination. Apprentices

or trainees shall be paid fringe benefits in accordance with the provisions of the respective program. If the program does not specify fringe benefits, employees must be paid the full amount of fringe benefits listed in the Wage Determination.

1.07 **Overtime.** No Contractor contracting for any part of Subsequent Construction which may require or involve the employment of Laborers or Mechanics shall require or permit any such Laborer or Mechanic in any workweek in which he or she is employed on such construction to work in excess of eight hours in any calendar day or in excess of 40 hours in such workweek unless such Laborer or Mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of 40 hours in such workweek, whichever is greater.

1.08 **Payrolls and Basic Records.**

(a) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of its Subsequent Construction and preserved for a period of one year thereafter for all Laborers and Mechanics it employed in Subsequent Construction. Such records shall contain the name, address and social security number of each employee, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for fringe benefits or cash equivalents thereof), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the wages of any Laborer or Mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program, the Contractor shall maintain records which show the costs anticipated or the actual costs incurred in providing such benefits and that the plan or program has been communicated in writing to the Laborers or Mechanics affected. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage prescribed in the applicable programs or the Wage Determination.

(b) 1. The Contractor shall submit to the Port on the first working Monday of each month a copy of the payrolls for the previous month in which any construction of the Improvements was performed. The payrolls submitted shall set out accurately and completely all of the information required by the Port's Form, a copy of which may be obtained from the Port. The Contractor if a prime contractor or the developer acting as the Contractor is responsible for the submission of copies of certified payrolls by all

subcontractors; otherwise each Contractor shall timely submit such payrolls.

2. Each monthly payroll shall be accompanied by the Statement of Compliance that accompanies this Exhibit and properly executed by the Contractor or his or her agent, who pays or supervises the payment of the employees.

(c) The Contractor shall make the records required under this section 1.08 available for inspection or copying by authorized representatives of the Port, and shall permit such representatives to interview employees, upon 24 hours notice, during working hours on the job; but without causing undue disruption to the work. On request the Executive Director of the Port shall advise the Contractor of the identity of such authorized representatives.

1.09 **Occupational Safety and Health.** No Laborer or Mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his or her safety and health as determined under construction safety and health standards promulgated by Cal-OSHA or if Cal-OSHA is terminated, then by the federal OSHA.

1.10 **Affirmative Action Program.** The utilization of apprentices, trainees, Laborers and Mechanics under this part shall be in conformity with the affirmative action program set forth in Exhibit I of the Lease. Any conflicts between the language contained in these Labor Standards and Exhibit I shall be resolved in favor of the language set forth in Exhibit I except that in no event shall less than the Prevailing Wage be paid.

1.11 **Nondiscrimination Against Employees for Complaints.** No Laborer or Mechanic to whom the wage, salary or other Labor Standards are applicable shall be discharged or in any other manner discriminated against by the Contractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or relating to these Labor Standards.

1.12 **Posting of Notice to Employees.** A copy of the Wage Determination referred to above in subsection (a) of section 1.04 together with a copy of a "Notice to Employees," in the form appearing on the last page of these Labor Standards, shall be given to Tenant at Commencement Date. The Notice to Employees and the Wage Determination shall both be posted and maintained by the Contractor in a prominent place readily accessible to all applicants and employees performing construction of the Improvements before construction commences. If such Notice and Wage Determination is not so posted or maintained, the Port may do so.

1.13 Violation and Remedies.

(a) Liability to Employee for Unpaid Wages. The Contractor shall be liable to the employee for unpaid wages, overtime wages and benefits in violation of these Labor Standards.

(b) Stop Work--Contract Terms, Records and Payrolls. If there is a violation of these Labor Standards by reason of the failure of any contract or subcontract for Subsequent Construction to contain the Labor Standards as required by Section 1.02 ("Non-Conforming Contract"); or by reason of any failure to submit the payrolls or make records available as required by Section 1.08 ("Non-Complying Contractor"), the Executive Director of the Port may, after written notice to Tenant with a copy to the Contractor involved and failure to cure the violation within ten working days after the date of such notice, stop the construction work under the Non-Conforming Contract or the Non-Complying Contractor comes into compliance.

(c) Stop Work and Other Violations. For any violation of these Labor Standards, the Executive Director of the Port may give written notice to Tenant, with a copy to the Contractor involved, which notice shall state the claimed violation and the amount of money, if any, involved in the violation. Within ten working days from the date of said notice, Tenant shall advise the Port in writing whether or not the violation is disputed by the Contractor and a statement of reasons in support of such dispute (the "Notice of Dispute"). In addition to the foregoing, Tenant, upon receipt of the notice of claimed violation from the Port, shall with respect to any amount stated in the Port notice withhold payment to the Contractor of the amount stated multiplied by 45 working days and shall with the Notice of Dispute, also advise the Port that the moneys are being or will be withheld. If Tenant fails to timely give a Notice of the Dispute to the Port or to advise of the withhold, then the Executive Director of the Port may stop Subsequent Construction under the applicable contract or by the involved Contractor until such Notice of Dispute and written withhold advice has been received.

Upon receipt of the Notice of Dispute or withhold advice, any stop work which the Executive Director has ordered shall be lifted, but Tenant shall continue to withhold the moneys until the dispute has been resolved.

(d) Withholding Certificates of Completion. The Port may withhold any or all certificates of completion of the Subsequent Construction provided for in this Lease, for any violation of these Labor Standards until such violation has been cured.

(e) General Remedies. In addition to all of the rights and remedies herein contained, the Port shall have all rights in law or equity to enforce these Labor Standards including, but not limited to, a prohibitory or mandatory injunction.

1.14 **Non-liability of the Port.** Tenant and each Contractor acknowledge and agree that the procedures hereinafter set forth in for dealing with violations of these Labor Standards are reasonable and have been anticipated by the parties in securing financing, in inviting, submitting and receiving bids for Subsequent Construction, in determining the time for commencement and completion of construction and in proceeding with construction work. Accordingly, Tenant, and any Contractor, by proceeding with construction expressly waives and is deemed to have waived any and all claims against the Port for damages, direct or indirect, arising out of these Labor Standards and their enforcement and including but not limited to claims relative to stop work orders, and the commencement, continuance or completion of construction.

EXHIBIT I

PROGRAM IN DIVERSITY

EXHIBIT I

PROGRAM IN DIVERSITY

This Exhibit I is entered into as part of that certain Ground Lease ("Lease") between the City and County of San Francisco through its Port Commission ("Port") and the China Basin Ballpark Company ("CBBC"). Unless otherwise defined in this Exhibit, capitalized terms shall have the meaning given to them in the Lease. Unless otherwise provided in this Exhibit, where notice is required, the procedures for notice shall be as provided in the Lease.

I. INTRODUCTION

A. The provisions of this Exhibit I are in addition to any obligations that may be imposed pursuant to San Francisco Administrative Code Chapters 12B and 12C.

B. CBBC recognizes the unique opportunity created by Pacific Bell Park ("Project") to contribute to the economic well being of its fans, employees and neighbors in the City and County of San Francisco. CBBC's goal is to encourage operation of the Project in a manner which promotes diversity of participation and includes the active involvement of local Minority Business Enterprises ("MBEs"), Women Business Enterprises ("WBEs") and economically disadvantaged San Francisco Residents.

C. CBBC believes that the Project will generate significant employment and business opportunities for minorities and women, including economically disadvantaged San Francisco Residents. CBBC seeks to involve MBEs, WBEs and San Francisco Residents in the Project at all levels. So that CBBC's progress may be tangibly established and measured the overreaching goals, key program components, techniques and monitoring procedures are set forth in this Program in Diversity ("Program") as methods for achieving economic participation by MBEs, WBEs and economically disadvantaged San Francisco Residents.

D. CBBC will take the steps outlined in this Program to ensure that equal opportunities are afforded to bona-fide MBEs, WBEs, minorities, women and economically disadvantaged San Francisco Residents. A special effort will be made to address issues relating to the City's welfare-to-work-program. Toward these ends, CBBC will:

1. Work in cooperation with the Port, in consultation with the Human Rights Commission ("HRC") and other interested parties, in the implementation of this Program.

2. Design an innovative, model welfare to work/youth employment program.

3. Assign a contract compliance officer with authority and responsibility for implementation of the provisions of this Program.

4. Work with the local Private Industry Council to identify employment opportunities for qualified persons on public assistance and other economically disadvantaged San Francisco Residents.

E. CBBC recognizes that additional effort and coordination with the Port and HRC will be required to develop a detailed plan to facilitate implementation of this Program. CBBC agrees to work in good faith with the Port and HRC to develop such an implementation plan, consistent with the terms of this Program.

II. DEFINITIONS

A. "**Commercially Useful Function**" shall mean, for purposes of determining whether a business is an MBE or WBE, that the business is directly responsible for providing the materials, equipment, supplies or services required for the Project. MBEs or WBEs who engage in the business of providing brokerage, referral or temporary employment services shall not be deemed to perform a "commercially useful function" unless the brokerage, referral or temporary services are those required and sought for the Project.

B. "**Minority, Minorities or Minority Person**" shall mean members of one of the following ethnic groups: Asians (including but not limited to, Asian-Indians, Chinese, Japanese,

Koreans, Pacific Islanders, Samoans, and Southeast Asians), Blacks, Filipinos and Latinos (Mexicans, Puerto Ricans, Cubans, Central Americans and South Americans).

C. **"Minority-Owned Business Enterprise ("MBE")** shall mean an economically disadvantaged local business which is an independent and continuing business for profit, performs a Commercially Useful Function and is Owned and Controlled by one or more Minority Persons residing in the United States or its territories. To qualify as an MBE, the business must be listed as certified by HRC or be otherwise approved by HRC.

D. **"Ownership and Control"** shall mean, for the purpose of determining whether a business is an MBE or WBE, that the minority(ies), the women or combination of minorities and women: (1) possess legal authority and power to manage business assets, goodwill and daily operations of the business; (2) actively and continuously exercise such authority and power in determining the policies and directing the operations of the business; and (3) possess an ownership interest of more than fifty-one percent (51%) as determined by attributes of ownership, such as interest in profit and loss and contributions of capital, equipment or expertise. Ownership shall be measured as though not subject to the community property interest of the spouse, if both spouses certify that only one spouse participates in the management of the business and the non-participating spouse relinquishes control over his/her community property interest in the subject business.

E. **"San Francisco Resident"** shall mean a person who establishes that s/he resides in San Francisco at the time of submission of her/his initial application for employment.

F. **"Woman-Owned Business Enterprise" ("WBE")** shall mean an economically disadvantaged local business which is an independent and continuing business for profit, performs a Commercially Useful Function and is Owned and Controlled by one or more women residing in the United States or its territories. To qualify as a WBE, the business must be listed as certified by HRC or be otherwise approved by HRC.

III. PROGRAM COMPONENTS

CBBC is committed to develop and implement a Program designed to foster MBE/WBE participation in the use and occupancy phase of the Project. CBBC is committed to undertake certain outreach steps discussed below to publicize the availability of business opportunities in the Project to qualified MBEs/WBE's and San Francisco residents. CBBC reserves the right to make final decisions on tenant-mix, rental rates, terms and conditions and financial and experience criteria.

1. **Minority, Women and San Francisco Resident Enterprise Participation Program.** CBBC will develop and implement a program designed to foster MBE/WBE and San Francisco Resident participation, both in terms of leasing space to and employing bona fide MBEs, WBEs and San Francisco Residents in connection with the Project where outside businesses are utilized. Operations include, but are not necessarily limited to, the following categories:

- Restaurant and Retail Operations
- Food and Beverage Concessions
- Retail Shops
- Security
- Advertising
- Custodial Services
- Printing Services
- Photography
- Retail concessions
- Public and media relations

2. **Employment and Job Training Programs.**

a. **Ballpark Operations.** CBBC will develop and implement a program to employ MBEs, WBEs and San Francisco Residents as new hires associated with

ballpark operations. These operations will include, but are not necessarily limited to, the following categories:

- CBBC Operations
- Grounds Keepers
- Parking
- Maintenance
- Guest Services (ticket sellers and takers, ushers, mezzanine staff)

b. **Programs Geared to Concession Operators and Other Tenants.**

- CBBC will collaborate with concession operators, maintenance and related operators to identify the number and types of permanent jobs associated with the Project.
- CBBC will facilitate establishment of a job-training program involving social services personnel, EDD staff, local community organizations and prospective tenants.
- CBBC will coordinate with City of San Francisco Social Services Dept, local California Employment Development Department personnel, and local community organizations to identify and solicit potential employees and job training program participants.

A significant component of the Program will be the welfare to work/youth employment plan described below. CBBC will work with existing social services and job training programs to design an innovative welfare to work/youth employment program to be coordinated with CBBC's other MBE/WBE and San Francisco Resident outreach and hiring efforts.

3. **Welfare to Work**. Working through the local Private Industry Council (Joint Partnership Training Program) ("PIC"), which in most communities is the lead agency for Welfare to Work Programs, CBBC will identify qualified candidates for inclusion as candidates for available positions. It is CBBC's understanding that the PIC will assist at CBBC's request in

recruitment, training, and placement of these workers and will maintain a database as a resource for potential employers.

4. **Youth Employment**. CBBC will identify vocational training programs in local community colleges and trade schools and seek their cooperation in identifying youth that have expressed an interest in careers in sports and entertainment and other fields related to the Project. CBBC will use these institutions as vehicles to recruit candidates for positions suitable for local youth. CBBC will also explore the feasibility of creating a summer jobs program, which will be targeted to underprivileged youth in the City and County of San Francisco.

5. **Subsequent Construction; Minority/Women Business Enterprise Program**. CBBC, the Port and HRC will work together on a case by-case basis to design an appropriate MBE/WBE program for any Subsequent Construction which requires approval by Landlord. The MBE/WBE program shall be based on San Francisco Administrative Code Chapter 12D, including, but not limited to, its provisions regarding MBE/WBE participation goals and good faith efforts, with the following modifications: (1) appropriate revisions will be made to definitions and other provisions as required to reflect that this is a private project and that certain public contracting provisions and other provisions applicable only to City departments will not apply; and (2) the Project will not be subject to the monitoring, reporting and enforcement provisions of Chapter 12D, including, but not limited to, Section 12D.14, but instead will be governed by a special monitoring, reporting and enforcement mechanism which includes a meet and confer process and non-binding arbitration, similar to those established in Attachment 14 to the Lease Disposition and Development Agreement.

IV. REPORTING AND MONITORING

CBBC shall designate a contract compliance officer (the "CBBC Contract Compliance Officer"). The CBBC Contract Compliance Officer will be responsible for internal monitoring, data gathering and reporting of compliance with all of the provisions of this Program. The CBBC Contract Compliance Officer will also be responsible for acting as a liaison between CBBC, the Port and HRC with respect to this Program. CBBC will require the CBBC Contract Compliance

Officer to submit annual reports to the Port and HRC regarding its achievements under the Program. The CBBC Contract Compliance Officer will also make quarterly progress report presentations as provided below.

The HRC will also appoint a contract compliance officer (the "HRC Contract Compliance Officer"). The HRC Contract Compliance Officer will act as a liaison between the HRC, the Port and CBBC with respect to this Program. The HRC Contract Compliance Officer will be responsible for reviewing the annual reports submitted to the Port and the HRC and will also receive quarterly progress report presentations from the CBBC Contract Compliance Officer. The HRC Contract Compliance Officer will monitor and report to the Port the compliance by CBBC with this Program based on the information received through the CBBC quarterly compliance presentations and annual reports.

If the HRC Contract Compliance Officer makes an initial determination that CBBC is not in compliance with this Program, s/he shall advise the Port of this initial determination. If the Port is in concurrence with the findings of the HRC Contract Compliance Officer, the Port will then advise CBBC of the initial determination and the basis therefor. If CBBC disputes the initial determination, the Port shall promptly schedule a meeting between representatives of CBBC, the Port and the HRC and the parties will meet and confer in an attempt to resolve the dispute. If the dispute is not resolved through the meet and confer process, the exclusive process for resolving any compliance dispute shall be the process between the Port and CBBC as provided in § V below.

The Port shall have the authority to request, either at its own initiative or at the inquiry of HRC, that the CBBC Compliance Officer provide evidence, including pertinent CBBC records, to establish that CBBC is in compliance with or will comply with the provisions of this Program. CBBC shall provide such records within a reasonable period of a request by the Port, provided that such requests shall be made only on a periodic basis, not to exceed once per quarter.

CBBC shall make biannual presentations to the Port Commission regarding the status of this Program and CBBC's compliance therewith. The primary purpose of these presentations will be to identify any revisions to the Program that may be appropriate in order to satisfy the overall purposes of the Program.

V. REMEDIES

A. The Port's right of enforcement. For purposes of enforcement, the Port is and shall be the beneficiary of the obligations, requirements and agreement established by this Exhibit I. The Port is the beneficiary for itself, in its own right, and also for purposes of protecting the interest of the community, and other parties, public or private, in whose favor and for whose benefit such obligations, requirements or agreements have been provided. Accordingly, the Port shall have the sole right to enforce said obligations, requirements and agreements against CBBC and no other party, public or private, shall have an independent right to enforce such obligations, requirements, or agreements even though such obligations, requirements and agreements have been provided for its benefit.

B. Remedies and sanctions. Only the following remedies and sanctions may be awarded against the noncompliant party(ies), either by an arbitrator or a court of competent jurisdiction, as applicable:

1. Order specific, reasonable actions and procedures, in the form of a temporary restraining order, preliminary injunction or permanent injunction, to mitigate the effects of the noncompliance and/or to bring CBBC into compliance.

2. If CBBC is found to be in willful breach of its obligations hereunder, impose financial penalties not to exceed $50,000. For purposes of this paragraph, "willful breach" means a knowing and intentional breach.

3. Direct that CBBC produce and provide to the Port any records, data or reports which are necessary to determine if a violation has occurred and/or to monitor the performance of CBBC.

C. Initiating Non-Binding Arbitration, Request for Arbitration. Non-binding arbitration, as provided for in this Exhibit I, shall be the procedure of first resort for resolving any dispute concerning the interpretation, implementation or alleged breach of this Exhibit that is not resolved through the meet and confer process described in § IV above. Obtaining a final

judgment through arbitration as provided in this Exhibit shall be a condition precedent to the ability of either party to file a request for judicial relief based upon this Program. The Port and CBBC may take any dispute pursuant to this Exhibit I to arbitration by filing a Request for Arbitration ("Request") with any member of the panel of arbitrators attached hereto as Attachment 1. Prior to filing the Request, the complaining party may determine by telephone if a particular arbitrator is available to hear the matter. Where CBBC is the complaining party, the Request shall be served on the Port. Where the Port is the complaining party, the Request shall be served on CBBC. The Request shall be filed and served either by hand delivery or by registered or certified mail. The Request shall identify other entities involved in the dispute, if any (e.g., CBBC's subcontractor), and state the exact nature of the dispute and the relief sought. If the complaining party seeks a temporary restraining order and/or a preliminary injunction, the Request shall so state in the caption of the Request.

D. Arbitrator's ability to act. The agreement between the parties and the arbitrator shall provide that, except where a temporary restraining order is sought, the arbitrator with whom the Request was filed shall notify the Port and CBBC by telephone within 48 hours if s/he is not available to act as arbitrator. Where a temporary restraining order is sought, such notice shall be provided within 24 hours. If the arbitrator is not available, s/he shall immediately designate one of the other members of the panel appearing on Exhibit I hereto to be the arbitrator.

E. Negotiations prior to arbitration. Prior to the filing and service of a Request, the parties to any arbitrable dispute shall meet and confer in an attempt to resolve the dispute as provided in § IV above. After the filing and the service of a Request, the parties shall negotiate in good faith for a period of 10 business days in an attempt to resolve the dispute; provided that the complaining party may proceed immediately to arbitration, without engaging in such a conference or negotiations, if the facts could reasonably be construed to support the issuance of a temporary restraining order or a preliminary injunction (temporary relief). Whether the facts reasonably

supported the issuance of temporary relief shall be determined by the arbitrator and shall not, under any circumstances, be determined by a court.

F. Setting of arbitration hearing. If the dispute is not settled within 10 business days, a hearing shall be held within 90 days of the date of the filing of the Request unless otherwise agreed by the parties or ordered by the arbitrator upon a showing of good cause; provided, that if the complaining party seeks a temporary restraining order, the hearing on the motion for a temporary restraining order shall be heard not later than two (2) business days after the filing of the Request, and provided further, if a party seeks a preliminary injunction, such motion shall be heard on 15 days' notice. The arbitrator shall set the date, time and place for the arbitration hearing(s) within the proscribed time periods by giving notice by hand delivery to the Port and CBBC; except, where a temporary restraining order is sought, the arbitrator may give notice of the hearing date, time and place to the Port and CBBC by telephone.

G. Discovery. In arbitration proceedings hereunder, discovery shall be permitted in accordance with Code of Civil Procedure § 1283.05.

H. Arbitrator's decision. The arbitrator shall make his/her award within 20 days of the date that the hearing is completed; provided that where a temporary restraining order is sought, the arbitrator shall make his/her award not later than 24 hours after the hearing on the motion. The arbitrator shall send the decision by certified or registered mail to the Port and CBBC.

I. Default award; no requirement to seek an order compelling arbitration. The arbitrator may enter a default award against any party who fails to appear at the hearing; provided said party received actual notice of the hearing. In order to obtain a default award, the complaining party need not first seek or obtain an order to arbitrate the controversy pursuant to Code of Civil Procedure § 1281.2.

J. Arbitrator lack of power to modify. Except as otherwise provided, the arbitrator shall have no power to add to, subtract from, disregard, modify or otherwise alter the terms of

this Lease, this Exhibit I, or any other agreement between the Port and CBBC, or to negotiate new agreements or provisions between the parties.

K. Jurisdiction/entry of judgment. The inquiry of the arbitrator shall be restricted to the particular controversy which gave rise to the request for arbitration. A decision of the arbitrator issued hereunder shall be final and binding upon the Port and CBBC unless one of the parties files a written request for judicial relief with a court of competent jurisdiction with respect to any claims pursuant to this Exhibit I within fifteen (15) working days after the issuance of the arbitrator's decision. If such a claim is timely filed, the petitioning party shall be entitled to de novo judicial review. The losing party in arbitration shall pay the arbitrator's fees and related costs of arbitration. Each party shall pay its own attorneys' fees provided that fees may be awarded to the prevailing party if the arbitrator finds that the Request was frivolous or that the arbitration action was otherwise instituted or litigated in bad faith. Judgment upon the arbitrator's decision may be entered in any court of competent jurisdiction.

L. California law applies. California law, including the California Arbitration Act, Code of Civil Procedure §§ 1280 through 1294.2, shall govern all arbitration proceedings, except as provided otherwise herein.

M. Exculpatory clause. CBBC expressly waives any and all claims against the Port for damages, direct or indirect, arising under this Exhibit I, including, but not limited to claims relative to the commencement, continuance and completion of construction. CBBC acknowledges and agrees that the procedures set forth herein for dealing with alleged breaches or failure to comply with the obligations and requirements of this Exhibit I and the affirmative action, equal opportunity obligations of this Lease are reasonable and have been anticipated by the parties.

N. Designation of agent for service. Not later than five (5) days after the execution of this Lease, CBBC shall designate a person or business as its agent for service of a Request and all notices provided for herein.

O. NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN COURT OR JURY TRIAL EXCEPT AS PROVIDED IN SECTION K ABOVE. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS SUCH RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.

_____	_____
Port of San Francisco	CBBC

VI. CONDITION PRECEDENT

A. If the Port determines that CBBC is in breach of this Exhibit I, the Port may require, as a condition precedent to the Port's obligation to convey the Project site, that CBBC cure the alleged breach.

B. If CBBC disagrees with the Port's determination that it is in breach, CBBC, as its exclusive remedy of first resort, may take the dispute to arbitration pursuant to § V of this Exhibit I.

VII. SEVERABILITY

The provisions of this Exhibit I incorporated herein are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this Exhibit, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of the Exhibit, or the validity of their application to other persons or circumstances.

Attachment 1

Panel of Arbitrators

To be attached at execution

EXHIBIT J

Rules and Regulations

(Attachment to be enclosed at execution)

EXHIBIT K

Form of Memorandum of Lease

(Attachment to be enclosed at execution)

EXHIBIT L

TO GROUND LEASE
FORM OF NON-DISTURBANCE AND ATTORNMENT AGREEMENT

EXHIBIT L

TO GROUND LEASE

Form of Non-Disturbance and Attornment Agreement

THIS NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement") dated for reference purposes as of _____, 1997 is made by the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, operating by and through its Port Commission ("Landlord") and _____ ("Subtenant").

THIS AGREEMENT is made with reference to the following facts and circumstances:

A. Landlord has leased to China Basin Ballpark Company LLC, a Delaware limited liability company ("Tenant"), certain land bounded generally by the easterly line of Third Street, the southerly line of King Street, the easterly line Second Street and China Basin Channel in San Francisco, California, under and pursuant to that certain Ground Lease between Landlord and Tenant, dated _____, 1997. Terms which are initial capitalized in this Agreement which are defined in the Ground Lease shall have the meaning therein specified, except as the context otherwise requires.

B. Pursuant to the Ground Lease, Tenant [has developed and is operating] [is developing and intends to operate] an open-air waterfront ballpark and complementary improvements, known as "Pacific Bell Park" (the "Ballpark").

C. Pursuant to the terms and provisions of the Ground Lease, Tenant has entered into a Sublease, dated _____, with Subtenant and, in accordance with the provisions of Section 14.4 of the Ground Lease, has requested Landlord to enter into this Non-Disturbance and Attornment Agreement with respect to the Sublease.

D. Accordingly, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Landlord and Subtenant hereby agree as follows:

1. Attornment. In the event Landlord succeeds to the interest of Tenant as sublandlord under the Sublease by reason of any termination of the Ground Lease by Landlord due to Tenant's default thereunder (following any notice and cure provisions provided therein, including Mortgagee protection provisions), or by any other manner or for any other reason, it is agreed that Subtenant shall be bound to Landlord and Landlord shall be bound to Subtenant, under all of the terms, covenants and conditions of the Sublease for the remaining balance of the term thereof, with the same force and effect as if Landlord were the original sublandlord under the Sublease and Subtenant shall attorn to Landlord, such attornment to be effective and self-operative without execution of any further instruments on the part of any of the parties to this Agreement, immediately upon Landlord succeeding to the interest of Tenant as sublandlord under the Sublease.

2. Non-Disturbance. So long as Subtenant is not in default under the Sublease, which default shall not have been cured or is not in process of being cured within the applicable grace period provided for in the Sublease, Landlord shall:

(a) recognize the Sublease to be in full force and effect;

(b) not disturb or terminate Subtenant's subleasehold estate under the Sublease by reason of any default by Tenant under the Lease; and

(c) permit Subtenant to remain in quiet and peaceable possession of the leased premises throughout the balance of the term of the Sublease (including, without limitation, any renewal terms thereunder) in accordance with the provisions of the Sublease; provided, however:

(i) Landlord shall not be liable for or obligated to cure any monetary default under the Sublease occurring prior to the time that Landlord succeeds to Tenant's interest as sublandlord under the Sublease, nor be subject to any offsets, defences or claims that Subtenant may be able to assert against Tenant as its sublandlord;

(ii) subject to Section 3 below, Landlord shall not be liable for or obligated to cure any non-monetary default under the Sublease occurring prior to the time Landlord succeeds to Tenant's interest as sublandlord under the Sublease; and

(iii) Landlord shall not be bound by any modification or amendment of the Sublease made without Landlord's written consent, except as otherwise permitted in the Ground Lease.

3. Cure of Certain Defaults. Subtenant's attornment obligations set forth herein shall be subject to Landlord's cure of any material non-monetary default under the Sublease (if Tenant's Mortgagees have failed to cure such default) to the extent such material non-monetary default must be cured in order to provide a facility that complies with the standards, provisions and requirements of the Sublease and meets the minimum requirements for the exhibition of Major League Baseball games in accordance with applicable Laws and Baseball Rules and Regulations, consistently applied to all facilities.

4. Notice and Opportunity to Cure Under Sublease. Landlord shall be entitled to notice and opportunity cure any default by Tenant as sublandlord under the Sublease as follows:

(a) Notices of Default. Subtenant shall give Landlord a copy of any and all notices of default or of the occurrence of an event of default from time to time given to Tenant, as sublandlord under the Sublease, by Subtenant at the same time as and whenever any such notice shall thereafter be given by

Subtenant to Tenant. Such notice shall be addressed to Landlord in the manner for delivery of notices provided in the Ground Lease.

(b) Landlord's Cure Rights. In the case of any notice of default given by Subtenant to Tenant as sublandlord under the Sublease and the Landlord in accordance with subsection (a) above, Landlord shall have the same rights to cure Subtenant's default as are given to a Mortgagee under the Ground Lease, effective after exhaustion of such Mortgagee's cure rights, for an additional period of thirty (30) days after Subtenant gives Landlord written notice of the expiration of such Mortgagee's cure period and of the Mortgagee's failure to cure the default; and Subtenant shall accept such performance by or at the instance of Landlord as if the same had been made by Tenant; provided, however, if such default cannot cured or remedied within such additional thirty (30) day period, such cure period shall be extended so long as Landlord commences the cure or remedy within such period and prosecutes to completion thereof with diligence and dispatch. Subtenant shall give Landlord written notice of the expiration of Mortgagee's cure period and its failure to cure a default.

5. General.

5.1 Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, administrators and assigns.

5.2 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

5.3 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

5.4 Special Provisions. From and after the attornment of Subtenant to Landlord pursuant to Section 1 above, the provisions of Sections 45.1, 45.3, 45.4, 45.5 and 45.6 of the Ground Lease shall be deemed to be incorporated by reference and made a part hereof as if

set forth in full in this Agreement, except that "Subtenant" shall be substituted for "Tenant" as set forth in said Sections of the Ground Lease.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

Subtenant:

_____
_____
_____

By _____

ACCEPTED AND AGREED:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, operating
by and through the San Francisco
Port Commission

By _____
_____,
Its Executive Director

APPROVED AS TO FORM:

_____, City Attorney

By _____
Port General Counsel

By _____
Deputy City Attorney

LEASE DISPOSITION AND DEVELOPMENT AGREEMENT ("DDA")

DRAFT OF JULY 10, 1997

CITY AND COUNTY OF SAN FRANCISCO
WILLIE LEWIS BROWN, JR., MAYOR

LEASE DISPOSITION AND DEVELOPMENT AGREEMENT

between the

CITY AND COUNTY OF SAN FRANCISCO,
THROUGH THE SAN FRANCISCO PORT COMMISSION

and

CHINA BASIN BALLPARK COMPANY LLC

for the delivery of a leasehold estate in real property
including Piers 46B and 46C, Seawall Lot 336, street areas
and Assessor's Block 3794, Lots 3B and 27
and for the construction of an open-air ballpark and complementary improvements

Dated as of July __, 1997

Douglas F. Wong
Executive Director

SAN FRANCISCO PORT COMMISSION

Michael Hardeman, President
Denise McCarthy, Vice President
James R. Herman, Commissioner
Frankie G. Lee, Commissioner

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LIST OF DDA ATTACHMENTS

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1	Legal Description of the Site
1A	Park Access Parcel
2	Perimeter Plot Plan for the Site
3	Scope of Development
4	Schedule of Performance
5	Form of Ground Lease
6	Form of Non-Relocation Agreement
7	Form of Baseball Sublease
8	Form of Non-Disturbance Agreement for Baseball Sublease
9	Form of Guaranty from Team Owner
10	Permitted Title Exceptions
11	Form of Architect's Certificate
12	Form of Certificate of Completion
13	Prevailing Wage Provisions
14	Program in Diversity (Construction)
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17	Memorandum of Agreement
18	Memorandum of Lease
19	Memorandum of Baseball Sublease
20	Form of Owner Participation Agreement
21	Hazardous Materials Conditions of Regulatory Agencies for Approval of Development of the Project
22	Deed Restriction
23	Form of Special Permit to Enter

LEASE DISPOSITION AND DEVELOPMENT AGREEMENT

THIS LEASE DISPOSITION AND DEVELOPMENT AGREEMENT (this "Agreement") dated for reference purposes as of July __, 1997, is by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (the "City"), operating by and through the SAN FRANCISCO PORT COMMISSION (the "Port"), and CHINA BASIN BALLPARK COMPANY LLC, a Delaware limited liability company (the "Developer").

THIS AGREEMENT is made with reference to the following facts and circumstances:

A. On March 26, 1996, the voters of the City approved Proposition B, which amended the City's zoning laws to allow a new ballpark for the San Francisco Giants to be built at China Basin. The purpose of this Agreement is to implement the policies and intent of Proposition B. This Agreement provides for the Port to convey to the Developer a leasehold estate in the Site (as described in Section 1.03 of this Agreement), upon the satisfaction of certain pre-conditions. This Agreement further provides for the Developer to construct privately a new open-air waterfront Ballpark to exhibit Major League Baseball games of the San Francisco Giants, together with complementary retail and commercial space and certain adjoining public access improvements, including a Waterfront Promenade along the northern edge of the China Basin Channel connecting the Embarcadero promenade (Herb Caen Way) with Third Street, adjacent to the Lefty O'Doul Bridge.

B. The presence and conduct of Major League Baseball in the City provides recreational opportunities for the residents of the City in the form of spectator sports, stimulates direct and indirect economic activity in the City, enhances the quality of life for San Franciscans and provides other substantial intangible benefits to the City and its residents.

C. The Site, which the voters approved as the location for the Ballpark under Proposition B, has special importance to the City, including its Port. This importance is attributable, among other things, to: (i) the Site's waterfront location; (ii) the nature of the Improvements and uses contemplated for the Site, which will enhance public enjoyment and access to the San Francisco Bay by bringing people of all ages to place of public assembly and recreation adjacent to the shoreline at China Basin, and will provide unique vistas and overviews of the Bay and the City; (iii) the Site's close proximity to the City's downtown and a variety of public transportation services; (iv) the relationship of the Site under the Port's Waterfront Plan to the South Beach/China Basin Waterfront area; and (v) the relationship of the Site under the Rincon Point-South Beach Redevelopment Plan to the South Beach Subarea, including South Beach Marina and South Beach Park, and other land within such Project Area which the Port leases to the Redevelopment Agency. Accordingly, this Agreement makes particular provision to assure the excellence and integrity of design and construction, availability of portions of the Project for public access amenities, and management and control necessary and appropriate for a first-class, state-of-the-art sports and entertainment development serving San Franciscans and

visitors to the City and enhancing public access to, views and enjoyment of the China Basin Channel, South Beach, Marina and the Bay beyond and of the Port's waterfront property.

D. The development and lease of the Site under the terms and conditions of this Agreement, and the fulfillment generally of the transactions which this Agreement contemplates: (i) are in the best interests of the City, including its Port; (ii) ensure a fair market return to the Port for the use of its property; (iii) are in accord with the public purposes and provisions of applicable Laws, including, but not limited to, restrictions which are or may become applicable to uses of the Site under the Tidelands Trust, including the Burton Act; (iv) will result in the Remediation by the Developer of Hazardous Materials existing in, on and under the Site for the contemplated uses in accordance with applicable regulatory requirements; (v) will provide for development of a comprehensive transportation management plan that will include, but will not be limited to, measures to encourage the use of public transit by ballpark patrons and employees and to manage traffic routing for games, and that will be implemented by a specially-formed ballpark transportation coordinating committee comprised of representatives of the Developer, the City, including its Port, public transit providers, and the community; (vi) will provide opportunities for the efficient use of existing parking resources and will not locate any permanent parking areas for the Ballpark on piers; (vii) will include site design, public access improvements and architectural treatments for the Project which are oriented to the Bay; (viii) will attract many visitors to the waterfront and promote opportunities for restaurants, entertainment and Bay-oriented commercial recreation activities in the surrounding area before and after baseball games and other permitted events; and (ix) are in furtherance of the implementation of the land use regulations which are applicable to the Site, including the City's General Plan, Special Area Plan and Planning Code, the Port's Waterfront Plan and the Rincon Point-South Beach Redevelopment Plan.

E. Subject to the terms and conditions of the OPA, the Redevelopment Agency will use its best efforts to issue Tax Allocation Bonds in an amount sufficient to generate up to $15 million in proceeds to finance development of certain infrastructure improvements that will support the Ballpark, including the Waterfront Promenade and other public improvements. No proceeds from the Tax Allocation Bonds will be made available to the Developer for the Project beyond the capacity of the property or possessory interest tax increment generated from development of the Project to pay debt service on such bonds. In this way, no tax increment will be drawn for the Project from other redevelopment project areas or from other development projects in the Project Area.

F. The Developer was organized by the Team Owner, which holds the professional baseball franchise for the San Francisco Giants, for the purpose of leasing the Site and financing, developing and operating the Project. Team Owner holds a controlling interest in the Developer.

G. As an essential inducement for the Port to lease the Site to the Developer, for the City to approve the transactions that this Agreement and the Lease contemplate and for the City to approve the allocation of tax increment needed for the Redevelopment Agency's issuance of the Tax Allocation Bonds, the Team Owner has agreed for the benefit of the City to enter into (i)

a Non-Relocation Agreement, whereby the Team Owner agrees to cause the Team to play its Baseball Home Games at the Ballpark from completion of the Ballpark through the end of the Initial Term of this Lease, on the terms and conditions in such Non-Relocation Agreement and the Baseball Sublease, and (ii) a Guaranty, whereby the Team Owner agrees to guarantee certain obligations of the Developer to the Port and the Redevelopment Agency, upon the terms and occurrence of certain enforcement events, including a breach of the Non-Relocation Agreement, as more fully set forth in such Guaranty.

ACCORDINGLY, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1 - GENERAL: PARTIES, TERM, DEFINITIONS, LEASE, OPA, AND PAYMENTS.

1.01 Port.

The Port is an agency of the City, exercising its functions and powers over property under its jurisdiction and organized and existing under the Burton Act and the City's Charter.

1.02 Developer.

The Developer is China Basin Ballpark Company LLC, a Delaware limited liability company. The Developer was organized by the Team Owner for the purpose of leasing the Site and financing, developing and operating the Project. As of the date of this Agreement, the Team Owner holds a controlling interest in the Developer.

1.03 Site.

The Site is bounded generally by the easterly line of Third Street, the southerly line of King Street, the easterly line of Second Street and the China Basin Channel, and is more particularly described in the Legal Description (Attachment 1). The Site consists of several tracts of land described in Section 2.01, as shown generally on the Plot Plan (Attachment 2). Appurtenant to the Site are certain non-exclusive access rights to the Waterfront Promenade Parcel over the Channel Access Parcel described in Attachment 1A, and certain non-exclusive access rights to the Improvements for pedestrians and vehicles over the Park Access Parcel described in Attachment 1A. The Access Rights are shown generally on the Plot Plan. The Site (exclusive of the Access Rights) contains approximately 544,858 square feet (12.5 acres) of land area.

1.04 Term of this Agreement.

The term of this Agreement shall be from the Effective Date until the Port records a Certificate of Completion for the Improvements under Article 7, unless this Agreement is earlier terminated in accordance with its provisions (the "DDA Term").

1.05 Definitions.

Initially capitalized terms used in this Agreement are defined in Article 14 or have the meanings given them when first defined. Any initially capitalized words or acronyms used but not defined in this Agreement shall have the same meanings as in the Lease.

1.06 Relationship of this Agreement to Lease.

This Agreement (i) provides for an agreement to lease the Site subject to certain conditions precedent and (ii) controls development of the Ballpark and other Improvements during the DDA Term. It addresses, among other matters, the assembly of the Site, the Delivery of the Site under the Lease, the scope of the Developer's obligations to construct the Project, the schedule of performance for those obligations, diversity and prevailing wage requirements, and financing for construction of the Project by the Developer. If the conditions to Delivery of the Site as set forth in Article 3 of this Agreement are satisfied, then the Port will lease the Site to the Developer, and the Developer will lease the Site from the Port, under the Lease in substantially the form and substance attached (Attachment 5). Before Completion, this Agreement shall control in the event of any inconsistency between this Agreement and the Lease; provided, however, the provisions of Section 42 of the Lease, relating to Mortgagee protection, shall control over any inconsistent provisions of this Agreement. Upon the Completion of the Improvements by the Developer in accordance with the terms of Article 7, this Agreement will terminate. Completion will be conclusively evidenced by recordation of a Certificate of Completion. From and after Completion, the Lease will govern the rights and obligations of the Parties with respect to use and occupancy of the Site.

1.07 Relationship of this Agreement to the OPA.

The Redevelopment Plan for the Rincon Point-South Beach Project Area has been amended to add the Site to the South Beach Sub-Area of the Project Area. At or about the same time as the Parties are entering into this Agreement, the Developer and the Redevelopment Agency are entering into an Owner Participation Agreement in the form of Attachment 20 (the "OPA"). The Port has approved the OPA in substantially the form attached to this Agreement. The OPA addresses two major areas. First, it describes the obligation of the Redevelopment Agency to use its best efforts to issue Tax Allocation Bonds to finance the construction of certain infrastructure to support the Project, including the Waterfront Promenade and certain other public improvements, subject to approval of an allocation of tax increment by the City's Board of Supervisors and satisfaction of the other conditions to issuance and release of the proceeds of the Tax Allocation Bonds contained in such agreement. Second, the OPA addresses the design,

construction, operation and shared access arrangements affecting the Project and the Agency's adjacent property and improvements. To the extent of any conflict or inconsistency between this Agreement and the OPA with respect to the rights and obligations of the Developer and the City to each other, this Agreement shall control.

1.08 Payments.

(a) DDA Extension Fee. The Developer shall pay to the Port the DDA Extension Fee, if any is due, subject to the terms and conditions of Section 3.02(c).

(b) DDA Termination Fee. If this Agreement terminates before the Close of Escrow, and such termination is not an Excused Termination, then the Developer shall pay to the Port a termination fee (the "DDA Termination Fee") as follows: (i) if such termination occurs on or before December 31, 1997, the DDA Termination Fee shall be in the amount of One Hundred Thousand Dollars ($100,000) per month, prorated for each fractional month from the date of termination through June 30, 1998, with the payment for the first month (or fractional month) following the termination payable within ten (10) business days of the Port's demand for payment and each subsequent payment due on or before the first of each calendar month thereafter up to and including June 1, 1998; (ii) if such termination occurs after December 31, 1997, the amount of the DDA Termination Fee shall be One Million Dollars ($1,000,000) payable following the termination of this Agreement within ten (10) business days of the Port's demand for payment. The term "Excused Termination" shall mean termination occurring for any of the following reasons, or occurring at a time when the Developer has the right to terminate this Agreement for any of the following reasons: (1) an Event of Default on the part of the Port, (2) an uncured Title Defect, (3) the occurrence of damage or destruction of the bulkhead wall or pier substructure on account of which the Developer has the right to terminate under Section 4.01(b) of this Agreement, (4) the General Plan Amendments, the Redevelopment Plan Amendment or any other legislative approval of the Project required to be given by the City is nullified by the voters through a referendum, (5) the City or Agency rescinds or repeals any approval required for the Project, which materially adversely interferes with the development of the Project for its intended use or would substantially increase the cost or duration of the development of the Project, (6) an Event of Default by the Agency under the OPA, or (7) the Port, for any reason, cannot deliver possession of Tract 2A free and clear of all occupancies by the Port and its tenants by the Target Date. The DDA Termination Fee shall be the Port's sole and exclusive remedy for any such termination (excluding a termination due to a Developer Event of Default).

ARTICLE 2 - SITE ASSEMBLY BY THE PORT.

2.01 Site Aggregation.

(a) Tracts. The Site currently consists of several tracts of land as generally depicted on the Plot Plan. The tracts are as follows:

(i) Tract 1 - Caltrans Parcel. Tract 1, bounded by Second, Third, King and Berry Streets and consisting of approximately 3.6 acres, is described generally as Lots 3B and 27 on Assessor's Block 3794 (the "Caltrans Parcel"). As of the date of this Agreement, Tract 1 is owned by Caltrans and is subject to an agreement of the Port to purchase such property under special State legislation, as further described in Section 2.02.

(ii) Tract 2 - Port Parcels. Tract 2 is owned by the City as trustee, and is held in trust through its Port under the Burton Act (the "Port Parcels").

(A) Tract 2A. The majority of Tract 2 is described generally as Piers 46B and 46C, Seawall Lot 336, on Lot 46B, Assessor's Block 9900 ("Tract 2A"). Tract 2A consists of approximately 7.6 acres of land and is located north of the bulkhead wall.

(B) Tract 2B - Waterfront Promenade Parcel. Adjacent to Pier 46B is the Waterfront Promenade Parcel ("Tract 2B"), which is located south of the bulkhead wall and includes the improvements comprising the Waterfront Promenade.

(C) Tracts 2C and 2D - Street Areas. The remaining portion of Tract 2 consists of the portion of Berry Street between the northeast line of Third Street and the southwest line of Second Street, containing approximately 0.9 acres ("Tract 2C"), and the portion of 2nd Street from the southeast line of King Street to the northwest line of Berry Street, containing approximately 0.4 acres ("Tract 2D"). As of the date of this Agreement, Tracts 2C and 2D consist of public streets.

(b) Access Parcels. Appurtenant to the Site are the Access Rights over the following parcels:

(i) Park Access Parcel. The Developer shall have rights of non-exclusive access over a portion of the area which is leased by the Redevelopment Agency from the Port for the South Beach Park, located east of Second Street, including a portion of Seawall Lot 335, described as the Park Access Parcel in Attachment 1A (the "Park Access Parcel"), for the purposes of vehicular and pedestrian ingress and egress, on the terms and conditions more particularly provided in the Lease and the OPA.

(ii) Channel Access Parcel. Subject to the provisions of Section 6.23(b), the Developer shall have rights of non-exclusive access in and over the waters of China Basin Channel and in the Port's retained lands beneath and adjacent to the Waterfront Promenade Parcel (the "Channel Access Parcel") for the purposes of construction, repair, maintenance, and replacement of the Improvements, including those within the Waterfront Promenade and the rights of support for the Improvements (but without any obligation on the part of the Port for support of all or any part of the Improvements), on the terms and conditions more particularly provided in the Lease.

(c) Ferry Landing Parcel. A parcel for Ferry Landing Facilities adjacent to the Waterfront Promenade Parcel may also be added to the Site, in accordance with the terms and conditions of the Lease.

(d) Assembly by Port. Subject to the terms and conditions of this Agreement, the Port intends to acquire the Caltrans Parcel subject to the Burton Act under the Caltrans Parcel Purchase Agreement, vacate the street areas in Tracts 2C and 2D, terminate the tenancies and occupancies of Tract 2A and, along with the remainder of the Port Parcels, lease the aggregated Site, together with the Access Rights, to the Developer for the term of the Lease.

2.02 Acquisition of Caltrans Parcel.

(a) Caltrans Parcel Purchase Agreement. The Port has certain rights to acquire the Caltrans Parcel from the State under special State legislation. Section 2.6 of the Burton Act (Assembly Bill 84, W. Brown) requires the State Director of Transportation, in consultation with the Director of Finance, to negotiate with the Port for the transfer of the Caltrans Parcel, subject to the conditions and reservations contained in the Burton Act. In accordance with A.B. 84, Caltrans has negotiated with the Port the terms for the sale of the Caltrans Parcel to the City. At its noticed meeting on January 29, 1997, the California Transportation Commission ("CTC"), which has jurisdiction over the Department of Transportation, approved the terms of the sale. The State Director of Finance subsequently approved the sale.

Subject to the terms, covenants and conditions of this Agreement, the Port agrees to acquire the Caltrans Parcel under a purchase and sale agreement which is consistent with that certain Term Sheet dated as of July 7, 1997, by and between Caltrans, the Port and the Developer (the "Caltrans Parcel Purchase Agreement"), and to merge such property with the remainder of the Site in accordance with Section 2.05. The Parties acknowledge that while the CTC and State Director of Finance have approved the transaction contemplated by the Caltrans Parcel Purchase Agreement in accordance with the authority for the sale granted under A.B. 84, the conveyance of the Caltrans Parcel to the Port remains subject to the satisfaction of certain conditions precedent described in the Caltrans Parcel Purchase Agreement. The Developer specifically acknowledges that it has approved the form and business terms of the Caltrans Parcel Purchase Agreement and the indemnification agreement attached to such agreement (the "Caltrans Indemnification Agreement"), including the purchase price to be paid by the Port to Caltrans and the obligations of the State, the Port and the Developer with respect to the Caltrans Tenants under such agreements.

(b) Conditions. The Port's obligation to acquire the Caltrans Parcel shall be subject to all of the conditions precedent set forth in Section 3.03. The Port shall use its best efforts to timely satisfy all such conditions precedent that are in the Port's control.

(c) Purchase Price; Costs. The Port shall pay the purchase price for the Caltrans Parcel under the Caltrans Parcel Purchase Agreement, including the required deposit, subject, however, to the provisions of Sections 2.02(d) and 3.02(c). The Port shall pay any escrow fees or other similar closing costs required under the Caltrans Parcel Purchase Agreement to record the Director's Deed if and to the extent any such fees and costs are in addition to the fees and costs of Delivery of the Site through the Escrow as provided in Article 3. The Parties' responsibilities to one-another for Caltrans Tenant Relocation Costs are described in subsection (e) below.

(d) Escrow and Closing. The closing of the purchase of the Caltrans Parcel (including payment of the purchase price and delivery of the Director's Deed) shall occur through the Escrow for the Lease described in Section 3.02 and shall be completed immediately before the Delivery of the Site to the Developer as provided in this Agreement; provided, however, the Port may, at its sole option, elect to close the purchase of the Caltrans Parcel at any earlier date.

The Developer may, at its sole option, request the Port to close on the purchase of the Caltrans Parcel before the Close of Escrow under this Agreement. If the Developer elects to make such a request, the Developer shall deliver written notice to the Port setting forth the requested date for the closing, and its good faith estimate of the date for the Close of Escrow under this Agreement. Upon receipt of such notice, the Port may, in its sole and absolute discretion, elect to close early on the purchase of the Caltrans Parcel in anticipation of the Close of Escrow under this Agreement, provided that the Developer shall, as minimum conditions to the Port's agreement to close early, perform the following obligations: (i) pay the Port monthly in advance (with the first such payment due on or before the close of escrow under the Caltrans Parcel Purchase Agreement), the amount of Thirty-Three Thousand Seventy-Four Dollars ($33,074) per month (less any rent actually received by the Port for such period from tenants and occupants of the Caltrans Parcel but without an obligation to mitigate the payments required from the Developer except for assignment of any claims against tenants in possession) for the period from the date the Port acquires title to the Caltrans Parcel until the earlier of termination of this Agreement or the Close of Escrow; (ii) perform all of the Developer's obligations under the Original Port Indemnification Agreement relating to Caltrans Tenant Relocation Costs; and (iii) transfer to the Port as soon as available the then remaining balance of the first security deposit to be posted by the Developer under the Caltrans Indemnification Agreement (which Caltrans is to release as a result of the closing of the purchase of the Caltrans Parcel) or such portion thereof as the Port determines in its sole discretion is necessary to protect the Port's interests with respect to any potential liability for Caltrans Tenant Relocation Costs. The Port shall have the right to hold and/or to apply the security transferred under clause (iii) above in accordance with the terms and conditions of the Caltrans Indemnification Agreement as if such agreement were between the Port (in place of Caltrans) and the Developer, as to the security for the Developer's obligations, provided that the Developer shall not be obligated to provide any additional security according to such agreement. Any security not so applied by the Port shall be released to the Developer upon the Close of Escrow.

(e) Caltrans Tenant Relocation Cost Reimbursement.

(i) Port's Obligation to Reimburse for Costs Before the Close of Escrow. Before the Close of Escrow under this Agreement, the Developer has the right, at its option, to execute and deliver the Caltrans Indemnification Agreement and, with the Port's consent as buyer of the Caltrans Parcel, direct Caltrans to terminate any and all of the leases, tenancies or private occupancies of the Caltrans Parcel. The Developer shall pay any and all Caltrans Tenant Relocation Costs arising before the Close of Escrow in connection with the Developer's exercise of such right. If the Developer exercises such right in accordance with the Caltrans Indemnification Agreement, then upon the Close of Escrow and subject to the terms and conditions of this Agreement, the Port shall reimburse the Developer for all Caltrans Tenant Relocation Costs actually incurred and paid by the Developer before the date of the Close of Escrow. The total amount of such reimbursement plus any Caltrans Tenant Relocation Costs incurred by the Port, at its sole option, on or before the Close of Escrow shall not exceed Five Hundred Thousand Dollars ($500,000). Beginning on the date the Developer executes and delivers the Caltrans Indemnification Agreement and continuing through the Close of Escrow under this Agreement, the Developer shall have delivered to the Port, by the tenth (10th) calendar day of every month, a report which shall include the following: (1) an accounting and description of all expenses legally due and payable incurred by the Developer; (2) an accounting and enumeration of such expenses referred to in clause (1) above which have been paid and an enumeration and explanation of those expenses, if any, which have not been paid; and (3) a status report on efforts to obtain possession of the premises or relocate each of the Caltrans Tenants, including a discussion of any claims made by such tenants for compensation on account of such termination or relocation. The Port shall have no obligation to reimburse the Developer for any Caltrans Tenant Relocation Costs not reasonably approved by the Port in writing before, on or after the date of payment by the Developer. The Port shall not unreasonably withhold approval of a good faith settlement of a claim for any Caltrans Tenant Relocation Costs by the Developer. Before the Port is obligated to make a payment of any Caltrans Tenant Relocation Costs, the Developer shall provide the Port with (i) a release by such Caltrans Tenant of the City, including its Port, and the Redevelopment Agency, which release shall be in form reasonably satisfactory to the Port, of any liability for Caltrans Tenant Relocation Costs, and (ii) copies of invoices and such other information and documentation as the Port may reasonably require to substantiate the payment of such costs. The reimbursement payable by the Port under this Section shall not be paid through any credits against Rent, including Additional Rent, or any other sums payable by the Developer under the Lease, unless and to the extent the Port gives its written consent to such credits, in advance and in its sole and absolute discretion.

(ii) Definition of Caltrans Tenant Relocation Costs. For purposes of this Agreement "Caltrans Tenant Relocation Costs" shall consist of the following items of cost and expense incurred by the City, including its Port, the Redevelopment Agency or the Developer (if the Developer incurs such costs in accordance with subsection (e)(i) above) in connection with the termination of leases or other occupancies of Caltrans Tenants on any portion of the Caltrans Parcel, whether any such items arise before, on or after the Close of Escrow: (1) reasonable administrative costs incurred by the State and payable to the State under

the Caltrans Indemnification Agreement; (2) payments to the Caltrans Tenants for relocation, relocation benefits, and/or relocation assistance, if any, and/or any other compensation that may accrue to or be claimed by the Caltrans Tenants and that are required by the Relocation Assistance Act or other applicable laws or paid in good faith settlement of such claims; (3) actual and reasonable costs and expenses incurred in connection with litigation or other legal process regarding lease terminations, unlawful detainer suits or other required legal process to obtain possession; and (4) lost rent to Caltrans directly and actually caused by such termination and payable to the State for the period before the closing of the purchase of the Caltrans Parcel under the Caltrans Indemnification Agreement ("Caltrans Lost Rent"); provided, however, solely for the purpose of the Port's obligation to reimburse the Developer under Section 2.02(e)(i) and for no other purpose under this Agreement, "Caltrans Tenant Relocation Costs" shall exclude any Caltrans Lost Rent.

(f) Excess Caltrans Tenant Relocation Costs; Indemnification.

(i) Excess Caltrans Tenant Relocation Costs. From and after the Close of Escrow, the Port shall be responsible for and shall pay directly, at its sole cost and expense, any and all Caltrans Tenant Relocation Costs up to a maximum, including amounts reimbursed to the Developer under Section 2.02(e) above, of Five Hundred Thousand Dollars ($500,000); however, the Port shall not be responsible for any portion of the Caltrans Tenant Relocation Costs that the Port may reasonably disapprove under subsection (e)(i) above, nor for any Caltrans Lost Rent. The Developer shall be responsible for and shall pay directly, at its sole cost and expense, any and all Caltrans Tenant Relocation Costs (including, but not limited to, Caltrans Lost Rent) in excess of such total of Five Hundred Thousand Dollars ($500,000), whether incurred before, on or after the Close of Escrow and whether incurred by the Developer, the Port, the City or the Redevelopment Agency (collectively, "Excess Caltrans Tenant Relocation Costs").

(ii) Indemnification by the Developer. Without limiting any of the other indemnification provisions of this Agreement or the Lease, the Developer shall Indemnify the Port and the Other Indemnified Parties from and against any (1) Excess Caltrans Tenant Relocation Costs or claims therefor, and (2) any and all Losses arising out of the Developer's failure to perform any of its obligations under the Caltrans Indemnification Agreement or Section 2.02(e)(i) of this Agreement. Upon the Close of Escrow, the foregoing indemnity shall supersede in its entirety the Port Indemnification Agreement dated as of July 7, 1997, executed by the Developer in favor of the City, including its Port, and the Redevelopment Agency (the "Original Port Indemnification Agreement"), whereby the Developer agrees to Indemnify the Port and the Other Indemnified Parties from and against any Caltrans Tenant Relocation Costs arising before the close of the purchase of the Caltrans Parcel and whether or not such closing occurs. Before the Close of Escrow, the provisions of the Original Port Indemnification Agreement shall govern to the extent of any conflict or inconsistency between the provisions of the indemnity contained in this subsection and the indemnity contained in the Original Port Indemnification Agreement.

(g) Notices. The Port shall give the Developer prompt telephonic and written notice of the Port's receipt of any notice of termination or notice of default given by Caltrans under the Caltrans Parcel Purchase Agreement, together with a copy of any such notice. The Developer shall give to the Port prompt telephonic and written notice of the Developer's execution of the Caltrans Indemnification Agreement and of any notice of termination or notice of default given by Caltrans under the Caltrans Indemnification Agreement, together with a copy of such notice. In addition to the monthly report described in Section 2.02(e)(i), the Developer shall furnish the Port with copies of any other reports and notices the Developer gives to Caltrans under the Caltrans Indemnification Agreement at the same time as it delivers such reports or notices to Caltrans.

2.03 Tenants and Occupancies.

(a) Termination of Tenancies on Tract 2A. The Port shall be responsible, at no cost and expense to the Developer, for vacating Tract 2A by the time required under subsection (c) below. Such responsibility consists of relocating from Tract 2A all of the private tenancies and the Port's occupancy, including its maintenance department. The Port shall comply with the requirements of the California Relocation Assistance Act (California Government Code Section 7260 et seq.) (the "Relocation Assistance Act") to the extent such Law applies to any such private tenancies.

(b) Termination of Tenancies on Caltrans Parcel. Subject to the terms and conditions of Section 2.02 regarding Caltrans Tenant Relocation Costs, the Port shall comply with the requirements of the Relocation Assistance Act to the extent applicable to the Caltrans Parcel. In cooperation with the Developer, the Port shall use commercially reasonable efforts to obtain possession as soon as possible from any Caltrans Tenants remaining in possession upon the closing of the purchase of the Caltrans Parcel. However, notwithstanding anything to the contrary in this Agreement, the Port shall not be responsible for obtain possession from remaining Caltrans Tenants by the target completion date for the Close of Escrow in the Schedule of Performance, shall not be in default under this Agreement for its failure to do so and shall have such reasonable additional time as is necessary to obtain possession from remaining Caltrans Tenants.

(c) Timing. Subject to the provisions of Section 2.02 and Section 2.03(b), the Port shall use its best efforts to obtain possession from all of the tenants and occupants on the Site before the required completion date therefor in the Schedule of Performance. In any event, the Port shall obtain possession from all tenants of Tract 2A before the Close of Escrow, subject only to Force Majeure, and provided that there is no material Event of Default on the part of the Developer under this Agreement.

(d) Cooperation and Coordination. The Developer and the Port shall cooperate with one-another regarding the termination of tenancies. The Parties shall further use their best efforts to coordinate their activities with regard to the Port tenants and the Caltrans Tenants to achieve the purposes this Agreement contemplates.

2.04 Street Vacations.

In order to accommodate the development of the Project on the Site and achieve the purposes of the Redevelopment Plan, the Port agrees to diligently take all actions reasonably necessary to vacate and abandon as a public street the right of way areas described in Section 2.10 as Tracts 2C and 2D. The effectiveness of such street vacations may be conditioned upon the closing of the purchase of the Caltrans Parcel. The Port will seek to complete such vacations (subject to such condition to effectiveness) before the date that this Agreement requires possession of the Site to be delivered to the Developer consistent with the Schedule of Performance. Such undertakings by the Port shall be subject to (1) any in-place utilities that are required to be relocated due to construction of the Improvements, which relocation shall be at no cost and expense to the City, including its Port, or to the Redevelopment Agency, for any City utilities (including, but not limited to, the City utilities described in Section 6.02(a) and for any and all other utilities, as further provided in Section 6.02, (2) the City's exercise of its municipal discretion in determining that it may make the findings and determinations required by Law for vacation and abandonment of Tracts 2C and 2D as public streets, (3) the Developer's provision of such survey maps for the Port's review as are necessary to process the vacations and (4) any rights that the Port reserves under the Lease.

2.05 Merger of Parcels.

The tracts comprising the Site (excluding of the Access Parcels) will be merged into a single parcel upon, or as promptly as possible following, completion of the street vacations of Tracts 2C and 2D and acquisition of the Caltrans Parcel by the Port. At its expense and in consultation with and approval from the Port, the Developer shall prepare and process any map filings with the City's Department of Public Works necessary to accomplish the merger.

ARTICLE 3 - DISPOSITION OF LEASEHOLD ESTATE IN THE SITE.

3.01 Agreement to Lease.

Subject to satisfaction by the Developer of the conditions to Delivery of the Site, the Port agrees to lease the Site to the Developer, and the Developer agrees to lease the Site from the Port, under the Lease in the form and substance of Attachment 5, for the development and operation of the Project, all in accordance with and subject to the terms, covenants and conditions of this Agreement.

3.02 Escrow.

(a) Opening of Escrow. The Developer shall open an escrow for the Delivery of the Site through the Lease ("Escrow") with Stewart Title Guaranty Company in San Francisco, or the local office of such other title company as the Developer may select and the

Port may find reasonably satisfactory, ("Title Company"). The Developer shall open the Escrow not later than the required completion date specified in the Schedule of Performance.

(b) Joint Escrow Instructions; Closing Date. Not later than fourteen (14) days before the final date specified for the Close of Escrow in the Schedule of Performance, the Developer shall notify the Port that it is ready to accept Delivery. Within seven (7) days after such notice, the Developer shall prepare joint escrow instructions as are necessary and consistent with this Agreement. If the joint escrow instructions are acceptable to the Port, the Port shall execute and transmit the instructions to the Title Company within seven (7) days after their receipt. If the Developer proposes to close the Escrow before the target completion date specified in the Schedule of Performance, the Developer shall give the Port at least forty-five (45) days advance written notice of the date it proposes for the Close of Escrow. Such advance notice is necessary in part to satisfy the requirement to provide notice to Caltrans under the Caltrans Parcel Purchase Agreement in order to provide for conveyance of the Caltrans Parcel free of occupancies by the State. If within seven (7) days after the Developer's notice the Port reasonably objects to the proposed date for the Close of Escrow, then the Parties shall meet and confer to select a reasonable date for the Close of Escrow. However, in any event, the Close of Escrow shall occur no earlier than all of the conditions precedent described in Sections 3.03 and 3.04 are either satisfied or waived by the Party which is benefited by such condition. If the Close of Escrow has not occurred by the required completion date for the Close of Escrow specified in the Schedule of Performance due to a reason or reasons other than the default by a Party to perform its obligations under this Agreement, then this Agreement shall terminate and neither Party shall have any further obligations under this Agreement except as otherwise expressly provided in this Agreement (including, without limitation, the Developer's obligation to pay the DDA Termination Fee if required under Section 1.08), unless the Parties mutually agree, in their sole absolute discretion, to extend the date for the Close of Escrow in accordance with an instrument signed by both Parties.

(c) Extension of Close of Escrow; DDA Extension Fee.

(i) If the Escrow under this Agreement is unable to close by the Target Date for any reason, then the Developer shall have the right, at its option, to extend the date for the Close of Escrow up until the required completion date for the Close of Escrow specified in the Schedule of Performance, upon the following terms and conditions (subject to Section 3.06(b) regarding Title Defects). By the Target Date, the Developer shall give the Port notice of the Developer's election to extend (the "Extension Notice"). In the Extension Notice, the Developer shall state its good faith estimate of when the Close of Escrow will occur (which shall be on or before the required completion date for the Close of Escrow specified in the Schedule of Performance, unless the Parties agree to a later required completion date, in their respective sole and absolute discretion, as further provided in subsection (b) above). The date for the Close of Escrow shall be extended to the date specified in the Extension Notice under the following circumstances: (1) there is no Event of Default on the part of the Developer under this Agreement; and (2) the Developer pays the DDA Extension Fee in the amount and on the terms specified below. The term "Target Date" means the later of (i) the date upon which the last of

the City ordinances approving the General Plan Amendments, Redevelopment Plan Amendment and street vacations required under Section 2.04 (but without regard to any conditions to the effectiveness of the vacation contained in the ordinance itself) have become effective, and (ii) October 31, 1997. Subject to Section 1.08(b) and subsection (ii) below, the Developer shall have the right to terminate this Agreement upon thirty (30) days prior written notice to the Port if the Close of Escrow does not occur by the Target Date due to the failure of any conditions precedent, provided that if all such conditions are satisfied within such 30-day period, this Agreement shall not terminate as a result of such notice.

(ii) Beginning on the Target Date and on the first day of each month thereafter until the earlier of the Close of Escrow or termination of this Agreement, the Developer shall pay to the Port, in advance, a fee (the "DDA Extension Fee") calculated as follows: (A) One Hundred Thousand Dollars ($100,000) per month for any month following the closing of the purchase of the Caltrans Parcel under the Caltrans Parcel Purchase Agreement, subject to the credit described in the last sentence of this subsection (ii); or (B) Sixty Six Thousand Nine Hundred Twenty Six Dollars ($66,926) per month if the Port has not closed the purchase of the Caltrans Parcel under the Caltrans Parcel Purchase Agreement, subject to adjustment in accordance with the provisions of this subsection below, and in accordance with the provisions of subsection (iii) below. The Extension Fee shall be prorated for any partial month, including a portion of the month after the Port acquires the Caltrans Parcel. If the close of escrow for the Caltrans Parcel has not occurred by December 31, 1997 in accordance with the Caltrans Parcel Purchase Agreement existing as of the date hereof due to a reason other than the Port's default under such agreement, the Port shall use commercially reasonable efforts to negotiate an extension with Caltrans on terms and conditions mutually acceptable to the Port (in consultation with the Developer) and Caltrans. If Caltrans elects to renegotiate the purchase price or require any option payment or other fee or charge as a condition to continuing the Port's rights to purchase the Caltrans Parcel, then the Port shall have no obligation under this Agreement to Deliver the Site unless the Developer agrees to pay such fee or charge or to pay any increase in the purchase price for the Caltrans Parcel as an increase in the DDA Extension Fee specified in clause (B) above, and otherwise on terms satisfactory to the Port and the Developer in their respective sole discretion. If the Port purchases the Caltrans Parcel before the Close of Escrow under Section 2.02(d), then any sums paid by the Developer to the Port as a condition to the Port's agreement to such close such purchase early shall be credited against the DDA Extension Fee.

(iii) Notwithstanding anything to the contrary in this Section 3.02(c), the DDA Extension Fee otherwise payable during the period that any Litigation Force Majeure is in effect on or after July 1, 1998 shall be reduced by one-half.

(iv) Notwithstanding anything to the contrary in this Section 3.02(2), the Developer shall not be obligated to pay the DDA Extension Fee for any period during which the Close of Escrow cannot occur due to an Excused Delay. The Port's failure to satisfy any other conditions to the Close of Escrow due to Force Majeure shall not limit the Developer's obligations to pay the DDA Extension Fee under this Section. The term "Excused

Delay" means any period of time during which one or more of the following occurs or is occurring: (1) an Event of Default or Unmatured Event of Default on the part of the Port, (2) an uncured Title Defect, (3) an Event of Default or Unmatured Event of Default by the Agency under the OPA, (4) the Port has failed to complete the McEnerney Actions, and (5) the Port is not ready, willing and able to deliver possession of Tract 2A free and clear of all occupancies by the Port and its tenants.

(v) The DDA Extension Fee shall not be refundable to the Developer under any circumstance, including, but not limited to, the failure of the Escrow to close, unless such failure to close is due to an Event of Default by the Port of its obligation to Deliver the Site in accordance with this Agreement and the Developer has otherwise performed all of its obligations to be performed before Delivery; provided, however, that (y) the total of the DDA Extension Fee actually paid by the Developer shall be credited solely against CPI adjustments to Minimum Rent as more specifically provided in the Lease, and (z) upon the Close of Escrow, the DDA Extension Fee paid by the Developer shall be prorated for any fractional month. If the Close of Escrow has not occurred by the date specified in the Developer's Extension Notice, the date for the Close of Escrow may, at the Developer's option, be further extended if the Developer furnishes the Port with a new Extension Notice at least fourteen (14) days before the date for the Close of Escrow established under the previous notice, and the Developer satisfies the conditions set forth in subsection (ii) above for such further extension.

(d) Recordation of Memorandum of Lease. The joint escrow instructions referred to in subsection (b) above shall provide that the Title Company will record the Memorandum Lease in the Official Records, as well as any other documents provided for in this Agreement which are to be recorded upon Delivery, as further provided in Section 3.05(a)(v).

(e) Costs of Escrow. The Port shall not be required to pay any costs or expenses for the Escrow except only (i) costs relating to the closing of the purchase of the Caltrans Parcel, as provided in Section 2.02(c), and (ii) premiums, if any, for any title insurance policies that the City, including the Port, or the Redevelopment Agency may elect to obtain. The Developer shall pay all fees, charges, costs and other amounts necessary for Delivery of the Site or the Close of Escrow, including, but not limited to, those set forth below:

(i) escrow fees;

(ii) the cost of any title reports or surveys and inspections and premiums for all title insurance policies obtained by the Developer;

(iii) recording fees, if any; and

(iv) transfer taxes, if any.

The Developer shall pay the fees and costs described in clauses (i) and (ii) above promptly after the Title Company notifies the Developer that such amounts are payable, but in any event before the Close of Escrow. The Developer shall pay any other amounts, including any charges described in clause (iv), when the same are due. If the Title Company requires, the Developer shall pay into Escrow any fees, costs, charges or other amounts required for the Close of Escrow under this Agreement.

3.03 Conditions to the Port's Obligation to Deliver Site.

(a) Port's Conditions Precedent. The following are conditions precedent to the Port's obligation to Deliver the Site to the Developer and close the Escrow for the Lease:

(i) The Developer shall have performed all obligations under this Agreement required to be performed on its part before the Close of Escrow, no Event of Default (or Unmatured Event of Default) exists on the Developer's part under this Agreement, and all of the Developer's representations and warranties made in Section 13.22 of this Agreement shall have been true and correct when made and shall be true and correct as of the Closing Date. At the Closing the Developer shall deliver to the Port a certificate to confirm the accuracy of such representations and warranties.

(ii) The Port shall have approved such of the Construction Documents as are required under Article 6 to be approved by the Close of Escrow in accordance with the Schedule of Performance.

(iii) The Port shall have approved evidence of adequate financing for the Project. No later than the date specified in the Schedule of Performance for submission of evidence of financing, the Developer shall have submitted the following to the Port for its review and approval:

(A) A budget of total development costs for the Site and the Improvements (the "Budget") in accordance with (1) the Final Construction Documents or the Preliminary Construction Documents if the Developer is using the Site Permit process and (2) the Scope of Development. The Budget shall include, but not be limited to, line items for all pre-development costs, all expenses for permits and fees, all architectural and engineering costs, all costs of capital and all hard construction costs, furniture, fixtures and equipment costs, and costs of tenant improvements to be constructed by the Developer.

(B) A statement and appropriate supporting documents in form reasonably satisfactory to the Port showing sources and uses of funds and sufficient to demonstrate that (i) the Developer has or will have adequate funds to complete the Improvements in accordance with the Budget and (ii) such funds have been spent for uses described in the Budget or are committed and available for that purpose.

(C) With regard to all debt financing, evidence of a bona fide commitment or commitments for the financing of that portion of the Budget the Developer intends to borrow, which portion shall not exceed eighty percent (80%) of the Budget. The Developer shall certify such evidence to be true, correct and accurate in all material respects. Such construction financing commitment or commitments shall contain no conditions to funding other than standard or customary conditions (and any other conditions reasonably acceptable to the Port) and no provisions either requiring acts of the Developer that would violate this Agreement or the Lease or prohibiting acts of the Developer that this Agreement or the Lease requires. The commitment or commitments shall be obtained from a Bona Fide Institutional Lender (or Lenders), and, if required as a condition to funding by any construction lender(s), shall include a commitment or commitments for permanent financing. The Developer covenants to perform any and all conditions to funding in accordance with the commitment(s).

(D) Within fifteen (15) days after the Developer's submission of all of the documents described in clauses (A), (B) and (C) above, the Port will notify the Developer in writing of its approval or disapproval (including the reasons for disapproval) of the evidence of financing, provided that at least thirty (30) days before the date of such request for approval, the Port shall have received Preliminary Construction Documents in accordance with Article 6 in sufficient detail to allow the Port to obtain a cost estimator's report if the Port, in its sole discretion and at its sole cost and expense, determines to obtain such a report. Failure of the Port to notify the Developer of its approval or disapproval within this period will constitute approval of the Developer's evidence of financing.

(iv) The Developer shall have submitted into Escrow the Non-Relocation Agreement in recordable form and the Guaranty, each duly executed (and, where required, acknowledged) by the Team Owner, as owner of the Franchise and approved by the Developer. In addition, in connection with the Non-Relocation Agreement, the Developer shall have submitted to the City the Intercreditor Agreement (which is an exhibit to the Non-Relocation Agreement), duly executed by the Developer, all Mortgagees under Mortgages to be recorded at Close of Escrow, the Team Owner, the Team Owner Lenders and the Redevelopment Agency.

(v) The Developer shall have submitted into Escrow and the Port shall have approved the Baseball Sublease and the Non-Disturbance and Attornment Agreement for the Baseball Sublease, both executed by the Developer and the Team Owner and approved by the Team Owner Lenders.

(vi) The Developer shall have furnished certificates of insurance or duplicate originals of insurance policies as required by Section 5.16.

(vii) Full demolition and building permits shall have been issued or, in the case of the Site Permit process, the demolition permit, the Site Permit and any

addendum or addenda to the Site Permit which are required for commencement of construction shall have been issued.

(viii) The Title Company shall be prepared to issue to the Port all title insurance required by Section 3.07 to be delivered to the Port.

(ix) The Port shall have approved evidence of a guaranteed maximum contract for construction of the Improvements consistent with the approved Budget and Project financing.

(x) The Port Commission shall have approved the Sign Guidelines to be attached as exhibits to the Lease.

(xi) The Port shall have approved the submissions the Developer is required to make before Delivery in accordance with the Program in Diversity.

(xii) The Developer shall have executed and delivered the OPA.

(xiii) State Lands shall have concurred in the Port's approval of this Agreement and the Lease and found that such agreements may be lawfully entered into by the Port under Section 24 of the Burton Act.

(xiv) BCDC and the Army Corps of Engineers shall have issued all permits and given any other authorizations required from such agencies for the construction of the Improvements. The Developer shall have obtained all required Regulatory Approvals required for construction of the Improvements in accordance with Section 3.09(b).

(xv) The Office of the Commissioner and any other Major League Baseball authorities whose approval is required under Baseball Rules and Regulations shall have approved the Lease, Baseball Sublease, Non-Relocation Agreement, Guaranty, and the transactions contemplated by such agreements. The Developer shall provide the Port with written evidence of such approvals in form and substance reasonably satisfactory to the Port.

(xvi) Caltrans shall have conveyed the Caltrans Parcel to the City, to be held by its Port, under the Caltrans Parcel Purchase Agreement, subject only to the Permitted Title Exceptions, and the Port shall have obtained possession from all Caltrans Tenants in accordance with the provisions of this Agreement.

(xvii) The City shall have vacated the public street over Tracts 2C and 2D as provided in Section 2.04.

(xviii) No Developer Event of Default exists under this Agreement.

(xix) The Developer shall have executed and delivered to the Port a certification of compliance with San Francisco Administrative Code Chapters 12B and 12C on the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form HRC-12B-101), together with supporting documentation, and shall have secured approval of the form by the City's Human Rights Commission.

(xx) The Developer shall have submitted into escrow such evidence of authority to enter into the Lease and this Agreement, and the transactions which the Lease and this Agreement contemplate, as the Port and the Title Company may reasonably require.

(xxi) The Redevelopment Plan Amendment and the General Plan Amendments have become and remain effective.

(b) Satisfaction of Port's Conditions. The conditions precedent set forth above are intended solely for the benefit of the Port. If any such condition precedent is not satisfied on or before the required completion date specified therefor in the Schedule for Performance, the Port shall have the right in its sole discretion either to waive in writing the condition precedent in question and proceed with Delivery of the Site or, in the alternative, to terminate this Agreement. In addition, the date for the Close of Escrow may be extended, at the Port's option, for a reasonable period of time specified by the Port, to allow such conditions precedent to be satisfied, subject to the Port's further right to terminate this Agreement upon the expiration of the period of any such extension if all such conditions precedent have not been satisfied.

3.04 Conditions to the Developer's Obligation to Accept Delivery of the Site.

(a) Developer's Conditions Precedent. The following are conditions precedent to the Developer's obligation to accept Delivery of the Site from the Port and close the Escrow for the Lease:

(i) The Port shall have performed all obligations under this Agreement which the Port is required to perform before the Close of Escrow.

(ii) The Title Company is prepared to issue to the Developer and to all Mortgagees under Mortgages to be recorded at Close of Escrow, upon payment by the Developer, all title insurance required by Section 3.07 to be delivered to the Developer and each Mortgagee.

(iii) There shall have been no material adverse change in the condition of the Site between the date of this Agreement and the date of Delivery, as further provided in Section 4.01.

(iv) The Port shall have approved the Construction Documents required to be approved by the Close of Escrow in accordance with the Schedule of Performance.

(v) The Developer shall have obtained a bona fide commitment or commitments, with no conditions to funding other than standard or customary conditions (and any other conditions reasonably acceptable to the Developer) and no provisions requiring acts of the Developer prohibited in this Agreement or the Lease or prohibiting acts of the Developer required in this Agreement or the Lease, for the financing of that portion of the Budget the Developer intends to borrow. The construction financing commitment or commitments shall be obtained from a Bona Fide Institutional Lender (or Lenders) and, if required by any construction lender(s), shall include a commitment or commitments for permanent financing.

(vi) The Team Owner and the Developer shall have executed and delivered into Escrow the Baseball Sublease. The Team Owner, the Developer, and the Port shall have executed and delivered into Escrow the Non-Disturbance and Attornment Agreement for the Baseball Sublease.

(vii) The Port shall have approved Non-Disturbance and Attornment Agreements to the extent the Port's approval would be required under Section 16.4 of the Lease with respect to any Subleases (other than the Baseball Sublease) for which the Developer has timely requested the Port to provide such Non-Disturbance and Attornment Agreements.

(viii) Full demolition and building permits shall have been issued or, in the case of the Site Permit process, the demolition permit, the Site Permit and any addendum or addenda to the Site Permit which are required for commencement of construction shall have been issued.

(ix) The Redevelopment Agency shall have executed and delivered the OPA, the Redevelopment Agency and City shall have authorized and approved the issuance of the tax allocation bonds, and the bonds shall have been issued to be held in escrow in accordance with the terms of the OPA.

(x) State Lands shall have concurred in the Port's approval of this Agreement and the Lease and found that such agreements may be lawfully entered into by the Port under Section 24 of the Burton Act.

(xi) BCDC and the Army Corps of Engineers shall have issued (or shall be prepared to issue upon payment of the fees therefor) all permits and given any other authorizations required from such agencies for the development of the Improvements. RWQCB and all other regulatory agencies whose approval is required shall have issued (or shall be prepared to issue upon payment of the fees therefor) all required Regulatory Approvals for construction of the Improvements, and the Port shall have executed any such permits which the Port is required to execute as co-permittee, subject to the terms and conditions of Section 3.09(b).

(xii) The Office of the Commissioner and any other Major League Baseball authorities whose approval is required under Baseball Rules and Regulations shall have approved the Lease, Baseball Sublease, Non-Relocation Agreement, Guaranty, and the transactions contemplated thereby.

(xiii) The Port shall have successfully prosecuted the McEnerney Actions to judgment as provided in Section 3.06(d).

(xiv) The Site will be delivered free and clear of all tenants and occupancies from the Site as provided in Section 2.03.

(xv) No Port Event of Default exists under this Agreement.

(xvi) The Redevelopment Plan Amendment and the General Plan Amendments shall have become and remain effective.

(xvii) The Port and other City authorizations and approvals required for this Agreement, the Lease and other agreements contemplated by this Agreement shall have been completed and shall have become and remain effective.

(xix) The Developer shall have entered into a guaranteed maximum price contract consistent with the approved Budget and Project financing as described in Section 3.03(a)(ix), provided that the Developer shall use its good faith efforts to enter into such contract in a timely manner.

(b) Satisfaction of the Developer's Conditions Precedent. The conditions precedent set forth above are intended solely for the benefit of the Developer. If any such condition precedent is not satisfied on or before the required completion date specified therefor in the Schedule of Performance, the Developer shall have the right in its sole discretion either to waive in writing the condition precedent in question and proceed with acceptance of Delivery of the Site or, in the alternative, to terminate this Agreement, subject to any obligation of the Developer to pay the DDA Termination Fee under Section 1.08. In addition, the date for the Close of Escrow may be extended, at the Developer's option, for a reasonable period of time specified by the Developer, to allow such conditions precedent to be satisfied, subject to the Developer's further right to terminate this Agreement upon the expiration of the period of any such extension if all such conditions precedent have not been satisfied.

3.05 Delivery of the Site.

(a) Port's Obligation to Deliver. Provided that the conditions to the Port's obligations with respect to Delivery of the Site as set forth in Section 3.03 and the conditions to the Developer's obligations with respect to acceptance of the Delivery of the Site as set forth in Section 3.04 have been satisfied or expressly waived on or before the respective required dates set forth in the Schedule of Performance, the Port and the Developer shall instruct the Title Company to complete the Close of Escrow, as set forth below. Upon the Close of Escrow the Port shall Deliver the Site to the Developer, and the Developer shall accept the Delivery of the Site, under the Lease.

(b) Steps to Close Escrow. The Close of Escrow shall be completed as follows:

(i) On or before the Close of Escrow, the City (through its Port where applicable) shall execute and acknowledge, as necessary, and deposit into Escrow with the Title Company the following: (1) the Lease; (2) the Memorandum of Lease; (3) the Non-Relocation Agreement; (4) the Inter-creditor Agreement; (5) the Non-Disturbance and Attornment Agreement for the Baseball Sublease in recordable form; (6) Non-Disturbance and Attornment Agreements in recordable form for any other Subleases to the extent the Port's approval would be required under the Lease, for which the Developer has timely requested the Port to provide such agreements; (7) the Deed Restriction, in recordable form; (8) the amount of the reimbursement to the Developer of the Caltrans Tenant Relocation Costs to the extent required under Section 2.02(e); (9) copies of the resolutions of the Port Commission and Board of Supervisors authorizing and approving the Lease and this Agreement; (10) the public access agreement, if any, in recordable form, required under the BCDC permit for the Project; and (11) any costs of escrow to the extent the Port is responsible therefor in accordance with Section 3.02(d).

(ii) On or before the Close of Escrow, the Redevelopment Agency shall execute and acknowledge, as necessary, and deposit the OPA into the Escrow with the Title Company.

(iii) The Port shall obtain a certified copy of the resolution of State Lands regarding the matters described in Section 3.03(a)(xiii) and shall deposit such resolution into escrow with the Title Company.

(iv) On or before the Close of Escrow, the Developer shall execute and acknowledge (or cause to be executed and acknowledged), as necessary, and deposit into escrow with the Title Company the following: (1) the Lease; (2) the Memorandum of Lease in recordable form; (3) the Non-Relocation Agreement executed by the Developer and the Team Owner; (4) the Inter-creditor Agreement, executed by the Developer, the Team Owner, the Mortgagees and the Team Owner Lenders; (5) the Baseball Sublease, a Memorandum of Baseball Sublease in recordable form, and the Non-Disturbance and Attornment Agreement for the Baseball Sublease, executed by the Team Owner, the Team Owner Lenders and the

Developer; (6) the OPA; (7) the certificate as to the accuracy of the representations and warranties under this Agreement required by Section 3.03(a)(i); (8) such resolutions of the Developer and its constituent members authorizing the execution and delivery of the Lease, this Agreement and the related agreements, and any other evidence of authority as the Port or the Title Company may reasonable require; and (9) all costs of escrow, except for costs, if any, as expressly required to be paid by the Port in accordance with Section 3.02(d).

(v) The Port and the Developer shall instruct the Title Company to consummate the Escrow as provided in Section 3.02(b). Upon the Close of Escrow, the Title Company shall record in the Official Records the following documents in the following order: (1) the Deed Restriction; (2) the Memorandum of Lease; (3) the OPA; (4) the Mortgage(s) (in the order specified by escrow instructions from the Developer and such Mortgagees; (5) the Memorandum of Baseball Sublease; (6) the Non-Relocation Agreement; (7) the Non-Disturbance and Attornment Agreement for the Baseball Sublease; (8) the public access agreement, if any, required under the BCDC permit for the Project; and (9) subject to the provisions of Section 3.09(b) and Article 8, any other documents reasonably required to be recorded under the terms of Regulatory Approvals or any Mortgage.

In addition, on or before the Close of Escrow under this Agreement, the following documents shall have been recorded in the Official Records: a Memorandum of this Agreement; the ordinance of the City's Board of Supervisor's ordering the vacation of Tracts 2C and 2D as public streets; and the Director's Deed conveying the Caltrans Parcel to the Port.

(vi) The Title Company shall issue title policies to the Developer, Mortgagee and the Port as required under Section 3.07.

(c) Waiver of Pre-Delivery Conditions. Unless the Parties otherwise expressly agree at the time of Delivery, all pre-Delivery conditions of the Parties shall, upon Delivery, be deemed waived by the Party benefited by such condition.

3.06 Condition of Title to the Site.

(a) Permitted Title Exceptions. Except for those "Permitted Title Exceptions" shown on Attachment 10, such other matters as Developer shall cause or suffer to arise, and the matters described in Section 3.05(b)(v), the Port shall Deliver to the Developer the Site under and subject to the provisions of the Lease for the term specified in the Lease, free and clear of (i) possession by others, (ii) rights of possession, and (iii) liens, encumbrances, covenants, assessments, easements, leases and taxes.

(b) Title Defect. Subject to Section 2.03(b) regarding the Caltrans Tenants, if at the time scheduled for Close of Escrow in the Schedule of Performance, any (i) possession by others, (ii) rights of possession other than those of the Developer, or (iii) lien, encumbrance, covenant, assessment, easement, lease, tax or other matter which is not a Permitted

Title Exception, encumbers the Site and would materially and adversely affect the development of the Project ("Title Defect"), the Port will have up to thirty (30) days from the date scheduled for Close of Escrow to remove the Title Defect. The Close of Escrow will be extended to the earlier of two (2) business days after the Title Defect is removed or the expiration of the thirty (30) day period (the "Extended Close of Escrow"). If the Title Defect can be removed by bonding and the Port has not so bonded within the thirty (30) day period, the Developer may cause a bond to be issued. The Port shall reimburse the Developer for the cost of such bond within thirty (30) days of demand therefor. The Port will not intentionally alter the condition of title to the Site existing as of the date of this Agreement except for the Deed Restriction and other documents and transactions contemplated hereunder.

(c) Developer's Remedies With Respect to Uncured Title Defect. Subject to Section 2.03(b) regarding the Caltrans Tenants, if at the date specified for the Extended Close of Escrow, unless the Parties mutually agree to extend such date, a Title Defect still exists, the Developer may by written notice to the Port either (i) terminate this Agreement or (ii) accept Delivery of the Site under the Lease. If the Developer accepts Delivery, the Title Defect will be deemed waived but solely with respect to any action by the Developer against the Port. If the Developer does not accept Delivery and fails to terminate this Agreement within seven (7) days after the date specified for the Extended Close of Escrow, or any extension provided above, the Port may terminate this Agreement upon three (3) days written notice to the Developer. If the Agreement is terminated under this Section, the Developer shall have no further remedies against the Port with respect to such termination, except that the Developer shall be entitled to a refund of any DDA Extension Fee paid to the Port.

(d) McEnerney Actions. The Port agrees to undertake and diligently carry to final judgment (as defined below) an action under the Destroyed Land Records Relief Law of 1953 (also known as the McEnerney Act), California Code of Civil Procedure Section 751.01 et seq. that the Title Company reasonably requires to eliminate any so called "McEnerney exception" affecting the Port's title to the Port Parcels and the Park Access Parcel before the date for the Close of Escrow. The Port will bring such action or actions ("McEnerney Actions") in cooperation with the Developer. The Developer shall provide the City with current preliminary title reports and a survey to enable the Port to proceed with filing of the McEnerney Actions to establish title. The Developer shall pay the out-of-pocket costs of publication of the McEnerney Actions. The McEnerney action(s) shall acknowledge that the Burton Act Trust is applicable to the Port Parcels and Park Access Parcel. The form of the pleading(s) and the Persons named as parties in such pleading(s) shall be approved by State Lands and the State Attorney General's Office and be sufficient to enable the Title Company to eliminate McEnerney exceptions from the title policies described in Section 3.07 (subject to the Permitted Title Exceptions). For purposes of this Section, "final judgment" means a judgment entered by a court or an order of a regulatory body of competent jurisdiction from which no appeal or review can be taken or as to which all right of appeal or review has lapsed or has been exhausted.

(e) Reservation of Mineral Rights by the State. In accordance with Sections 2 and 3.5(c) of the Burton Act, the Developer and the Port acknowledge that the State

reserves certain subsurface mineral rights from a point of entry outside of the Site, and subject to certain limitations, as more particularly described in Section 1.1(d) of the Lease.

(f) Hazardous Materials Condition Deed Restrictions. As a condition to its approval of the Site Investigation Report and Risk Evaluation, prepared by Geomatrix Consultants Inc., dated September 1996, the RWQCB requires a land use restriction to be recorded against the Port's title to assure the Site remains in commercial or industrial use. In addition, as a condition of its approval of the Soil Management Plan, prepared by Geomatrix Consultants Inc., dated November 1996, the San Francisco Department of Public Health requires a notification to be recorded to notify Persons with property interests of specific handling procedures for disturbed soils. The Port shall at the Close of Escrow record in the Official Records the Deed Restriction satisfying these requirements. The Developer approves and accepts the Deed Restrictions as one of the Permitted Title Exceptions.

3.07 Title Insurance.

(a) Insurance to be Issued at the Close of Escrow. The joint escrow instructions described in Section 3.02(b) will provide that concurrently with Delivery the Title Company will issue and deliver:

(i) to the Developer an A.L.T.A. extended coverage title insurance policy issued by the Title Company, with such coinsurance or reinsurance and direct access agreements as the Developer may request reasonably, in an amount designated by the Developer which is satisfactory to the Title Company, insuring that the leasehold estate in the Site, including the Developer's interest in the Access Rights over the Access Parcels appurtenant to such estate, are vested in the Developer subject only to the Permitted Title Exceptions, and with C.L.T.A. form endorsements 103.7, 116.1 and 116.4, and such other endorsements as may be requested reasonably by the Developer, all at the sole cost and expense of the Developer; and

(ii) to the Mortgagee(s) under any Mortgage to be recorded at the Close of Escrow, an A.L.T.A. extended coverage title insurance policy issued by the Title Company, with such coinsurance or reinsurance and direct access agreements as such Mortgagees may request reasonably, in the amount of such Mortgage(s), insuring that the lien of the Mortgage of the Developer's leasehold estate in the Site, including the Developer's interest in the Access Rights over the Access Parcels appurtenant to such estate, are vested in the Mortgagee(s) subject only to the Permitted Title Exceptions, and with such other endorsements as may be requested reasonably by such Mortgagee, all at the sole cost and expense of the Developer; and

(iii) to the Port an A.L.T.A. extended coverage title insurance policy issued by Title Company in an amount specified by the Port and satisfactory to the Title Company, insuring the Port's fee interest in the Site subject to the Tidelands Trust and the other Permitted Title Exceptions which are applicable to the fee, and with such C.L.T.A. endorsements as the Port may reasonably request, provided that there is no incremental cost to the Developer

for such policy (including the endorsements) in excess of the cost of the title policies referred to in clauses (i) and (ii) above. In the event such policy is available only at an incremental cost, the Port shall either pay the incremental cost or elect not to receive a policy of title insurance, but in either case the Developer shall have no obligation to procure such insurance on behalf of the Port.

(b) Surveys. The Developer is responsible for securing any and all surveys and engineering studies at its sole cost and expense, as needed for the title insurance required under this Agreement or as otherwise required to consummate the transactions contemplated by this Agreement. The Developer shall provide the Port with complete and accurate copies of all such final surveys and engineering studies.

3.08 Taxes and Assessments.

(a) Ad Valorem Taxes and Assessments Before and After Delivery. For any period before Delivery, the Developer is responsible for any ad valorem taxes (including, but not limited to, possessory interest taxes) assessed by reason of its entry upon the Site under a Permit to Enter or otherwise. Ad valorem taxes and assessments levied, assessed, or imposed for any period on or after Delivery, including but not limited to, possessory interest taxes, are the sole responsibility of the Developer.

(b) Possessory Interest Taxes. The Developer recognizes and understands that this Agreement may create a possessory interest subject to property taxation and that the Developer may be subject to the payment of property taxes levied on such interest. San Francisco Administrative Code Sections 23.6-1 and 23.6-2 require that the City and County of San Francisco report certain information relating to this Agreement, and any renewals of this Agreement, to the County Assessor within sixty (60) days after any such transaction, and that the Developer report certain information relating to any assignment under this Agreement to the County Assessor within sixty (60) days after such assignment transaction. The Developer agrees to provide such information as may be requested by the Port to enable the Port to comply with this requirement.

3.09 Compliance with Laws.

(a) Compliance with Laws and Other Requirements. At its sole cost and expense, the Developer shall comply (taking into account any variances or other deviations properly approved) at all times throughout the DDA Term, with:(i) all Laws; (ii) all requirements of Baseball Rules and Regulations with respect to the design and construction of the Ballpark; (iii) all of the Mitigation Measures which place requirements on the project sponsor and all of the Improvement Measures, as further provided in Section 12.02; (iv) all requirements of all policies of insurance which may be applicable to the Site, the Improvements or the Developer's Personal Property; (v) the Lease; and (vi) all other applicable Project Requirements. It is expressly understood and agreed that the performance required of the Developer by the preceding sentence shall include the obligation to make, at the Developer's sole cost and expense, all additions to,

modifications of, and installations on the Premises which may be required by any Laws regulating the Premises or any insurance policies covering the Premises, the Improvements or the Developer's Personal Property. For purposes of this Section, the Developer's obligations for the Access Areas shall be limited to those requirements attributable to the use of such property by the Developer or any of its Agents, Invitees or other Persons acting by or on its behalf. The Developer shall, promptly upon request, provide the Port with evidence of compliance with the Developer's obligations under this Section.

(b) Regulatory Approvals.

(i) The Developer understands and agrees that the Port is entering into this Agreement in its capacity as a landowner with a proprietary interest in the Site (subject to the Tidelands Trust and subject to the provisions of this Agreement regarding acquisition of the Caltrans Parcel) and not as a regulatory agency with certain police powers. The Developer understands and agrees that neither entry by the Port into this Agreement nor any approvals given by the Port under this Agreement shall be deemed to imply that the Developer will obtain any required approvals from City departments, boards or commissions which have jurisdiction over the Premises, including the Port itself in its regulatory capacity. By entering into this Agreement, the Port is in no way modifying or limiting the obligations of the Developer to develop the Project in accordance with all Laws, as provided in this Agreement.

(ii) The Developer understands that its construction of the Improvements on the Site and development of the Project will require approval, authorization or permit by governmental agencies with jurisdiction, which may include, but shall not be limited to, BCDC, RWQCB, the Coast Guard and the Army Corps of Engineers. The Developer shall be solely responsible for obtaining any such Regulatory Approvals, as further provided in this Section. The Developer shall not seek any Regulatory Approval without first obtaining the approval of the Port, which shall not be unreasonably withheld, conditioned or delayed. Throughout the permit process for any Regulatory Approval, the Developer shall consult and coordinate with the Port in the Developer's efforts to obtain such permits, and the Port shall cooperate reasonably with the Developer in its efforts to obtain such permits. However, the Developer shall not agree to the imposition of conditions or restrictions in connection with its efforts to obtain a permit from any other regulatory agency if the Port is required to be a co-permittee under such permit or the conditions or restrictions could create any obligations on the part of the Port whether on or off of the Site, unless in each instance the Port has previously approved such conditions in writing and in the Port's sole and absolute discretion. No such approval by the Port shall limit the Developer's obligation to pay all the costs of complying with such conditions under this Section. Subject to the conditions of this Section, the Port shall join any application by the Developer for a BCDC permit or other required Regulatory Approval and in executing such permit where required, provided that the Port shall have no obligation to join in any such application or sign the permit if the Port does not approve the conditions imposed by BCDC or other regulatory agency under such permit as set forth above. All costs associated with applying for and obtaining any necessary Regulatory Approval shall be borne by the Developer. At no cost or expense to the City, including its Port, the Developer shall be solely responsible in

the construction of the Improvements for complying with any and all conditions or restrictions imposed by regulatory agencies as part of a Regulatory Approval, whether such conditions are on Site or require off-Site improvements as a result of the Project, except as otherwise expressly provided in this Agreement (including any of its attachments) or in the mitigation monitoring program adopted by the Port or the City's Board of Supervisors in connection with any Regulatory Approvals approved by the Port or the City. With the consent of the Port (which shall not be unreasonably withheld or delayed) the Developer shall have the right to appeal or contest any condition in any manner permitted by law imposed upon any such Regulatory Approval. Any fines, penalties or corrective actions imposed as a result of the failure of the Developer to comply with the terms and conditions of any Regulatory Approval shall be paid or otherwise discharged by the Developer, and the Port shall have no liability, monetary or otherwise, for such fines and penalties. Without limiting any other indemnification provisions of this Agreement, the Developer shall Indemnify the Port and the Other Indemnified Parties from and against any and all Losses which may arise in connection with the Developer's failure to obtain or comply with the terms and conditions of any Regulatory Approval or with the appeal or contest of any conditions of any Regulatory Approval.

ARTICLE 4 - AS IS CONDITION OF THE SITE; INDEMNIFICATION.

4.01 Site As Is; Risk of Loss.

(a) Acceptance of Site in "AS IS WITH ALL FAULTS" Condition; Risk of Loss. The Port shall not prepare the Site for any purpose whatsoever related to the Developer's obligations to construct the Improvements, except solely for its obligations to deliver the Site free of certain occupancies as provided in Section 2.03 and Section 3.06(a). Subject to the provisions of Section 3.06 with regard to the Permitted Title Exceptions, the Developer agrees to accept the Site in its "AS IS WITH ALL FAULTS" condition on the date of Delivery as further described in Section 1.1(e) of the Lease; provided that there is no change in the physical condition of the Site between the date of this Agreement and the date of Delivery that would materially adversely interfere with development of the Project for its intended uses. The Developer agrees, subject to the provisions of Section 4.01(b), that no damage or destruction, no matter how major, to the existing improvements shall give the Developer any right to terminate this Agreement, nor give rise to any other right or remedy of the Developer, and the Developer expressly assumes all such risk. Notwithstanding anything to the contrary in Section 6.16, in the event of such damage or destruction, the Port shall be entitled to all insurance proceeds, except that the Port shall pay or assign to the Developer any insurance proceeds paid or, with regard to an assignment, payable as a result of damage to or destruction of the bulkhead wall and/or pier substructure occurring before the date of the Close of Escrow, so long as (i) the Developer uses such proceeds to repair such damage and destruction, (ii) the Developer pays any deductible, and (iii) the Developer waives and right to terminate this Agreement or the Lease due to such damage or destruction. The Port will not under any circumstances be liable to the Developer for any monetary damages which may result should any portion of the Site (including, but not limited to, the bulkhead wall, pier substructure or any

infrastructure) be damaged or destroyed partially, substantially or totally at any time before Delivery to the Developer.

(b) Damage or Destruction of Bulkhead Wall Pier Substructure. Notwithstanding any provision of this Agreement to the contrary, if prior to the Close of Escrow any damage to or destruction of the bulkhead wall or pier substructure should occur which would materially adversely interfere with the development of the Project for its intended use or would substantially increase the cost or duration of the development of the Project, taking into account any insurance proceeds available to Developer for repair of such damage in accordance with Section 4.01(a) above, then Developer shall have the right to terminate this Agreement upon ten (10) days notice to Port, provided that no entry by Developer or its Agents caused such damage or destruction.

(c) Independent Investigation by Developer. The Developer acknowledges that it has been afforded a full opportunity to inspect all of the public records of the Port relating to Developer's proposed use of the Site. No representation or warranty is made as to the accuracy or completeness of any matters contained in such records. The Developer is not relying on any such information. All information contained in such records is subject to the limitations set forth in subparagraph (d) below. The Developer represents and warrants to the Port that the Developer has performed a diligent and thorough inspection and investigation of the Site, either independently or through its own experts including, without limitation, (i) the quality, nature, adequacy and physical condition of the Site, including, but not limited to, the structural elements, foundation, bulkhead, the condition and load-bearing capacity of the piles, and all other physical and functional aspects of the Site; (ii) the quality, nature, adequacy, and physical, geotechnical and environmental condition of the Site (including Hazardous Materials conditions with regard to the soils and any groundwater); (iii) the suitability of the Site for the Project; (iv) the zoning, land use regulations and other Laws governing use of or construction on the Site; and (v) all other matters of material significance affecting the Site and its development under this Agreement.

(d) DISCLAIMER OF REPRESENTATIONS AND WARRANTIES. THE DEVELOPER AGREES THAT THE SITE IS BEING DELIVERED BY PORT AND ACCEPTED BY THE DEVELOPER IN ITS AS IS WITH ALL FAULTS CONDITION. THE DEVELOPER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT NEITHER THE CITY, INCLUDING ITS PORT, NOR THE REDEVELOPMENT AGENCY, NOR ANY EMPLOYEE, OFFICER, COMMISSIONER, REPRESENTATIVE OR OTHER AGENT OF ANY OF THEM, HAS MADE, AND THERE IS HEREBY DISCLAIMED, ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, OF ANY KIND, WITH RESPECT TO THE CONDITION OF THE SITE, THE SUITABILITY OR FITNESS OF THE SITE OR APPURTENANCES TO THE SITE (INCLUDING THE ACCESS RIGHTS OVER THE PARK ACCESS PARCEL AND THE WATERFRONT PROMENADE ACCESS PARCEL) FOR THE DEVELOPMENT, USE OR OPERATION OF THE PROJECT, ANY COMPLIANCE WITH LAWS OR APPLICABLE LAND USE OR ZONING REGULATIONS, ANY MATTER AFFECTING THE USE, VALUE, OCCUPANCY OR ENJOYMENT OF THE

SITE, OR ANY OTHER MATTER WHATSOEVER PERTAINING TO THE SITE OR THE PROJECT.

4.02 Environmental Matters.

(a) Compliance with Hazardous Materials Laws. From and after Delivery of the Site, the Developer shall comply with the provisions of all Hazardous Materials Laws applicable to the Site, including the Improvements, and the activities conducted on the Site, and all uses, improvements and appurtenances of and to the Site, as further provided in the Lease. The Developer shall perform any required Investigation and Remediation of Hazardous Materials with regard to any condition of the Site existing before or after Delivery, no cost to the Port, in accordance with applicable laws, regulations and agency requirements and standards. The Site Investigation and Risk Evaluation (Geomatrix, October 1996) satisfies the requirements of Article 20 of the San Francisco Public Works Code ("Analyzing Soils for Hazardous Waste"), except for the requirement for a Certification Report under Article 20 of the San Francisco Public Works Code. The Certification Report must be submitted to the City's Department of Public Health and the Port with sixty (60) working days of completion of construction of the building foundations and geotextile and compacted soil cover over the playing field. The Certification Report must include the information listed in the Department of Public Health letter to Mr. John Yee dated December 3, 1996. Subject to Section 19 of the Lease, the Port, the City, and the Redevelopment Agency and their respective Agents will have no responsibility or liability whatsoever with respect to Remediation of the Site. The Developer shall comply with all Hazardous Materials Laws and with all conditions for Regulatory Approval of Hazardous Materials Remediation, including, but not limited to (i) the requirement by RWQCB to record a deed restriction (as approved by the Port and the City's Department of Public Health), and comply with the conditions as set forth in the letters from RWQCB to Mr. John Yee dated October 16, 1996 and November 25, 1996 (Attachment 21), and (ii) the requirement by the City's Department of Public Health to comply with the Soils Mitigation Plan, to record a deed notice and file a Certification Report as set forth in the letter from the City's Department of Public Health to Mr. John Yee dated December 3, 1996 (Attachment 21).

(b) Remedies Against Other Persons. Nothing in this Agreement is intended in any way to preclude or limit the Developer from pursuing any remedies the Developer may have with regard to the existence of Hazardous Materials in, on, under or about the Site against any Person other than the Port, the City or the Redevelopment Agency and their respective Agents; provided, however, the Developer may pursue such remedies only with the advance written consent of the Port, which consent shall not be unreasonably withheld, conditioned or delayed.

4.03 Indemnification.

(a) Indemnification Before Delivery. Before Delivery of the Site and without limiting any indemnity contained in any Permit to Enter, the Developer shall Indemnify the Port and the other Indemnified Parties from and against any and all Losses incurred in

connection with or arising directly or indirectly, in whole or in part, out of: (i) the death of any person or any accident, injury, loss or damage whatsoever caused to any person or to the property of any person which may occur on or adjacent to the Site and which may be directly or indirectly caused by any acts done on the Site or any acts or omissions of the Developer or its Agents, (ii) any default by the Developer in the observation or performance of any of the terms, covenants or conditions of this Agreement to be observed or performed on the Developer's part; and (iii) the entry by Developer, its Agents or Invitees or any Person claiming through or under any of them, upon the Site; except only to the extent of Losses resulting directly from the gross negligence or willful misconduct of any of the Indemnified Parties.

(b) Indemnification On and After Delivery. On and after Delivery of the Site, the Developer shall Indemnify the Port and the Other Indemnified Parties in accordance with the provisions of the Lease.

(c) General Provisions Regarding Indemnities.

(i) Costs. The foregoing Indemnities shall include, without limitation, reasonable fees of attorneys, consultants and experts, laboratory costs, and related costs, as well as the Indemnified Party's costs of investigating any Loss.

(ii) Immediate Obligation to Defend. The Developer agrees to defend the Indemnified Parties against any claims which are actually or potentially within the scope of the indemnity provisions of this Agreement even if such claims may be groundless, fraudulent or false. The Port or the Indemnified Party against whom any claim is made which may be within the scope of the indemnity provisions of this Agreement shall provide notice to the Developer of such claim within a reasonable time after learning of such claim, and thereafter shall cooperate with the Developer in the defense of such claim; provided that any failure to provide such notice shall not affect Tenant's obligations under any such indemnity provisions except to the extent Developer is prejudiced by such failure.

(iii) Not Limited by Insurance. The insurance requirements and other provisions of this Agreement shall not limit the Developer's indemnification obligations under this Agreement or the Lease.

(iv) Survival. The indemnification obligations of the Developer set forth in this Agreement shall survive any early termination of this Agreement as to any acts or omissions occurring prior to such date, provided that after Delivery, the indemnification obligations of the Developer under this Agreement shall be subsumed in the indemnification obligations of the Developer under the Lease.

(v) Additional Obligations. The agreements to Indemnify set forth in this Agreement are in addition to, and in no way shall be construed to limit or replace, any other obligations or liabilities which the Developer may have to the Port in this Agreement, any Permit to Enter or applicable law.

(vi) Defense. Developer shall, at its option but subject to the reasonable consent and approval of the Port, be entitled to control the defense, compromise, or settlement of any indemnified matter through counsel of the Developer's own choice; provided, however, in all cases the Port shall be entitled to participate in such defense, compromise, or settlement at its own expense. If the Developer shall fail, however, within a reasonable time following notice from Port alleging such failure, to take reasonable and appropriate action to defend such suit or claim, Port shall have the right promptly to use the City Attorney or to hire outside counsel to carry out such defense, which expense shall be due and payable to the Port within ten (10) business days after receipt by the Developer of an invoice therefor.

ARTICLE 5 - ACCESS BY DEVELOPER UPON SITE.

5.01 Access and Entry by the Developer to the Site.

(a) Permit to Enter Before Delivery. Subject to the provisions of subsection (c) below with regard to the Caltrans Parcel, before Delivery the right of access to and entry upon the Site by the Developer and its Agents shall be governed by the provisions of this Section.

(i) From time to time and at all reasonable times, the Developer shall have the right of access to and entry upon the Site for the purposes of performing non-invasive data and tests necessary to carry out this Agreement, performing visual surveys and inspections and performing site mobilization (such as placement on Site of construction trailers and stockpiling of supplies that do not contain Hazardous Materials, on locations approved by the Port); provided, however, the Developer shall first obtain a Permit to Enter from the Port in its standard form, including, but not limited to, the indemnification and insurance requirements contained in such permit.

(ii) From time to time and at all reasonable times, the Developer may also have the right of access to and entry upon the Site for the purpose of performing the relocation, alteration or termination of utilities (subject to the rights of any tenants on the Site and the terms and Sections 2.04 and 6.02) and performing indicator pile testing under a plan approved in advance by the Port; provided, however, the Developer shall first obtain the consent of the Port, which the Port shall not unreasonably withhold, delay or condition, and execute a Permit to Enter which shall be substantially in the form of and satisfying the requirements specified in Attachment 24, including, but not limited to, the indemnification and insurance requirements contained in such permit.

(iii) Except as provided in clause (ii) above, before Delivery, the Developer may not perform any demolition, excavation or construction work without the express written approval of the Port, which the Port may give or withhold in its sole and absolute discretion. If the Port grants such approval, the Port may include in the permit to enter such

additional insurance, bond, guaranty and indemnification requirements as the Port determines are appropriate to protect its interests.

(iv) In making any entry upon the Site authorized in accordance with the foregoing, the Developer shall not materially interfere with or obstruct the permitted, lawful use of the Site by the Port, its tenants, or the tenants' invitees, or their conduct of normal business operations thereon.

(b) Issuance of Permit to Enter. The Port may require the Developer to obtain a separate Permit to Enter for each activity to be undertaken by the Developer at different times before Delivery. Such Permit to Enter will be for a period of time which reasonably will permit the Developer to complete the activity for which access and entry is authorized. Provided all the conditions to issuance contained in the form of Permit to Enter are met, the Port agrees to issue a Permit to Enter not more than five (5) days after (i) request by the Developer, and (ii) the passage of such additional time as is reasonably necessary for the Port to secure access to the area of the Developer's entry on the Site. The Port may require the contractor performing the work under the Permit to Enter to be a co-permittee.

(c) Caltrans Parcel. If the Developer desires access to the Caltrans Parcel before Delivery and the City does not have title to such property, the Developer shall obtain a permit to enter directly from the State. The Developer shall provide the Port with a copy of any such permit and evidence of insurance required thereunder.

ARTICLE 6 - DEVELOPMENT OF THE SITE.

6.01 Developer's Construction Obligations.

(a) Scope of Development; Schedule of Performance. The Developer shall construct or cause to be constructed the Improvements on the Site within the times and in the manner set forth in this Article and as more particularly set forth in the Schedule of Performance and the Scope of Development. The satisfaction of the matters set forth in the Schedule of Performance by the required completion dates set forth therefor is an essential part of this Agreement, time being of the essence. In the event the Port grants an extension of any such date, the Port shall not be deemed to be waiving any other rights under this Agreement or implying the extension of any other dates.

(b) Costs; Private Development. The cost of developing the Site and construction of all Improvements shall be borne solely by the Developer, except solely for funds from the sale of the tax allocations bonds to be issued by the Redevelopment Agency based on increment from the Project under the terms and conditions of the OPA. Without limiting the foregoing, the Developer shall be responsible for performing all Site preparation work necessary for construction of the Improvements. Such preparation of the Site shall include, among other things, all demolition of existing improvements and Investigation and Remediation of Hazardous Materials required for development or operation of the Improvements, and all substructure work.

6.02 Utilities; Demolition of Existing Improvements.

(a) In-Place Utilities. The Developer shall be responsible, at no cost to the City, including its Port, or to the Redevelopment Agency, for relocating all City-owned utilities (including the City sewer, water facilities, police and fire communication facilities, and MUNI line facilities) and all other in-place utilities which are required to be relocated as a result of the Project, whether or not such utilities are located in the street areas comprising Tracts 2C or 2D. Nothing herein shall be construed as limiting the obligation of non-City-owned utilities, to the extent it otherwise exists under applicable law, to relocate such utility facilities at their own expense. As to any City or other utilities which do not need to be relocated because they do not service uses or occupancies off of the Site, the Developer shall be responsible, at no cost to the City, including its Port, and the Redevelopment Agency, for safely shutting off such utilities and removing or abandoning them in place in accordance with applicable Laws. All terminations, alterations or relocations of City utilities shall be done in accordance with plans and specifications approved by the City. The Developer shall perform each required relocation or termination of utilities at such a time and in such a manner as to avoid disruption of services (i) to users or occupants outside of the Site and (ii) before Delivery, to the Port's maintenance facility until it is relocated and to any other lawful occupant of the Site during the period of their lawful occupancy.

(b) Demolition of Existing Improvements. As part of the construction of the Initial Improvements, the Developer shall demolish all of the existing structures and other improvements on the Site that are required to be demolished for the Project. The Developer shall cause all such existing structures and improvements to be inspected for lead, asbestos and other Hazardous Materials by a qualified inspector. If any friable asbestos-containing materials are identified, the Developer shall, at its sole expense, implement before demolition adequate abatement practices in accordance with all applicable Hazardous Materials Laws and Regulatory Approvals. The Developer shall be solely responsible for removing and properly disposing of any and all asbestos containing materials, lead-based paint or lead-containing building materials, PCB-containing equipment or any other Hazardous Materials in accordance with all applicable Hazardous Materials Laws and in accordance with specifications which shall be subject to the Port's prior written approval, which shall not be unreasonably withheld or delayed.

6.03 The Construction Documents.

(a) Definition of Construction Documents. The Construction Documents consist of:

(i) Schematic Drawings;

(ii) Preliminary Construction Documents; and

(iii) Final Construction Documents.

(b) Exclusion. As used in this Agreement "Construction Documents" do not mean any contracts between the Developer and any contractor, subcontractor, architect, engineer or consultant.

6.04 Compliance of Construction Documents.

The Developer shall construct all of the Improvements in compliance with those elements of the Construction Documents for which Port approval is required under Sections 6.07 and 6.09 and in compliance with all applicable Laws, including, without limitation, Hazardous Materials Laws and Disabled Access Laws, and as further provided in Section 3.09. In addition, the Construction Documents shall conform to and be in compliance with applicable requirements of (i) the Redevelopment Plan; (ii) this Agreement, including the Scope of Development; (iii) the Mitigation Measures required to be performed by the project sponsor under this Agreement; (iv) the Improvement Measures; (v) the OPA; (vi) the Port's building code; (vii) required Regulatory Approvals; (viii) the Deed Restriction; and (ix) the Waterfront Plan. All such requirements are sometimes referred to collectively as the "Project Requirements."

6.05 Preparation of Construction Documents/Approval of Architect.

(a) Preparation by Licensed Architect. The Construction Documents shall be prepared by or signed by an architect (or architects) duly licensed to practice architecture in and by the State of California. A California licensed architect shall coordinate the work of any associated design professionals, including engineers and landscape architects.

(b) Inspection. A California licensed architect shall inspect all construction of the Improvements and shall provide certificates in the form of Attachment 11 Architect's Certificate when required by the Port.

(c) Certification by Structural Engineer. A California licensed structural engineer shall review and certify all final structural plans and the sufficiency of structural support elements, including, but not limited to, the pier substructure and bulkhead wall, to support the Improvements.

6.06 Submission of Construction Documents.

The Developer shall prepare and submit the Construction Documents to the Port for review and approval as provided in Section 6.07 in accordance with the Scope of Development and at the time or times established in the Schedule of Performance.

6.07 Scope of Port Review of Developer's Construction Documents.

(a) Scope of Review. The Port's review and approval of the Construction Documents under this Agreement is limited to (i) conformity with the Project

Requirements, (ii) exterior architectural appearance and aesthetics, (iii) the siting of the Improvements in relation to the water and public areas, (iv) alterations to the pier substructure and bulkhead wall, and (v) design of the Waterfront Promenade and any other areas required under Regulatory Approvals to be accessible to the public.

(b) Effect of Review. Subject to the provisions of the last sentence of this subsection 6.07(b), the Port's review and approval or disapproval of Construction Documents will be final and conclusive. Except by mutual agreement with the Developer, the Port will not disapprove or require changes subsequently in, or in a manner which is inconsistent with, matters which it has approved previously. If there is a disagreement between the Port and the Developer as to whether or not a matter contained in a particular submittal has been approved previously or whether the Port is acting in a manner which is inconsistent with matters which it approved previously, the Port's reasonable judgment will apply in resolving the disagreement.

(c) Consolidated Design Review. To the extent permitted by Law and to the extent practicable under the Schedule of Performance, all City and Redevelopment Agency commissions entitled to review design under applicable Law will consider design for the Improvements at the Schematic Drawings phase and at a joint hearing. The commissions will consider the design for the Improvements to the extent and according to the standard required by Law.

(d) BCDC Design Review. The design of the Improvements shall also be subject to BCDC review to the extent such agency has jurisdiction over the Project.

6.08 Scope of Developer Submissions of Construction Documents.

The following provisions apply to all stages of the Developer's submission of Construction Documents. Each of the Construction Document stages is intended to constitute a further development and refinement from the previous stage. The elements of the Preliminary Construction Documents requiring the Port's approval shall incorporate conditions, modifications and changes specified by the Port for the approval of the Schematic Drawings. Preliminary Construction Documents shall be in sufficient detail and completeness to show that the Improvements and the construction of the Improvements will be in compliance with the Project Requirements and matters previously approved. The Final Construction Documents shall be a final development of, and be based upon and conform to, the approved Preliminary Construction. The elements of the Final Construction Documents requiring Port approval and shall incorporate conditions, modifications and changes required by the Port for the approval of the Preliminary Construction Documents. The Final Construction Documents shall include all drawings, specifications and documents necessary for the Improvements to be constructed and completed in accordance with this Agreement.

6.09 Changes in Final Construction Documents.

(a) Approval of Changes in Required Elements. Changes may not be made in any Port-approved Construction Documents as to elements requiring Port approval as provided in this Article (each a "Required Element") without the Port's express written approval in its discretion; provided, however, if certain materials approved by the Port are not available for construction, the Developer may substitute materials which are the architectural equivalent as to aesthetic appearance, quality, color, design and texture, as determined by the Port in the exercise of its reasonable discretion and are in compliance with the Port's building code.

(b) Response. All changes in Required Elements shall be requested in writing by the Developer. The Port shall respond to the Developer within thirty (30) days.

6.10 As-Built Documents.

The Developer shall furnish the Port as-built plans, specifications and surveys with respect to the Site within sixty (60) days after Completion of the Improvements. As used in this Section "as-built plans and specifications" means as-built field plans prepared during the course of construction. If the Developer fails to provide such surveys and as-built plans and specifications to the Port within such period of time, the Port after giving notice to the Developer shall have the right, but not the obligation, to cause the preparation by an architect of the Port's choice of final surveys and as-built plans and specifications, at the Developer's sole cost.

6.11 Conflict Between Project Requirements and Building Standards.

(a) Approval by Port. The Port shall not withhold its approval, where otherwise required under this Agreement, of elements of the Construction Documents or changes in Construction Documents required by any other governmental body with jurisdiction if all of the following have occurred:

(i) the Port receives written notice of the required change;

(ii) the Port is afforded a reasonable opportunity to discuss such element or change with the governmental body having jurisdiction of and requiring such element or change and with the Developer's architect;

(iii) the Developer's architect cooperates fully with the Port and with the governmental body having jurisdiction in seeking reasonable modifications of such requirement, or reasonable design modifications of the Improvements, or some combination of such modifications, all to the end that a design solution reasonably satisfactory to the Port may be achieved despite the imposition of such requirement; and

(iv) any conditions imposed in connection with such requirements shall be subject to Section 3.09(b).

(b) Best Efforts to Attempt to Resolve Disputes. The Developer and the Port recognize that the foregoing kind of conflict may arise at any stage in the preparation of the Construction Documents, but that it is more likely to arise at or after the time of the preparation of the Final Construction Documents and may arise in connection with the issuance of building permits. Accordingly, time may be of the essence when such a conflict arises. Both Parties agree to use their best efforts to reach a solution expeditiously that is mutually satisfactory to the Developer and the Port.

6.12 Construction Document Review Procedures.

(a) Role of Port Staff and Commission. As to the submittals referred to in the Scope of Development, the Port's review and approval of Construction Documents means and requires: (i) review and approval of required Construction Documents by the Port's Executive Director; and (ii) review and approval of the design only by the Port Commission acting at a public meeting after consideration of the submittal at a public meeting; provided, however, changes in Final Construction Documents from approved Preliminary Construction Documents will be submitted to the Port Commission for review and approval only if the Port's Executive Director deems such changes to be materially inconsistent with the design approved by the Port Commission.

(b) Method of Port Action/Prior Approvals. The Port shall approve, disapprove or approve conditionally the Construction Documents, in writing, within the times established in the Schedule of Performance so long as such documents are properly submitted in accordance with the Schedule of Performance. Failure by the Port to either approve or disapprove within such times will entitle the Developer to an extension of time equal to the period of such delay.

(c) Timing of Port Disapproval/ Conditional Approval and Developer Resubmission. If the Port disapproves the Construction Documents in whole or in part, the Port in the written disapproval shall state the reason or reasons and may recommend changes and make other recommendations. If the Port conditionally approves the Construction Documents in whole or in part, the conditions shall be stated in writing and a time shall be stated for satisfying the conditions. The Developer shall make a resubmittal as expeditiously as possible. The Developer may continue making resubmissions until the approval of the submissions or the later of (i) the time specified in any conditional approval or (ii) the last date for Delivery in the Schedule of Performance, as either may be extended by the Port. Failure to have a submission approved by such last date will permit termination of this Agreement by the Port on thirty (30) days' written notice to the Developer, unless the Developer cures such failure within such 30-day period. If the Port disapproves the Construction Documents, the date in the Schedule of Performance for approval of Construction Documents will be extended an additional thirty (30) days.

6.13 Progress Meetings/Consultation.

During the preparation of Construction Documents, the Port staff and the Developer agree to hold periodic progress meetings, as appropriate considering the Developer's Construction Document progress, to coordinate the preparation of, submission to, and review of Construction Documents by the Port. The Port staff and the Developer agree to communicate and consult informally as frequently as is reasonably necessary to assure that the formal submittal of any Construction Documents to the Port can receive prompt and speedy consideration.

6.14 Construction Schedule.

The Developer shall use its best efforts to commence, prosecute and complete all construction and development within the times specified in the Schedule of Performance or within such extension of time as the Port may reasonably grant in writing or as otherwise permitted by the Agreement, subject to Force Majeure.

6.15 Reports.

During periods of construction the Developer shall submit written progress reports to the Port, in form, detail and frequency as may be required reasonably by the Port, but no more frequently than once every quarter, except during the last one hundred and twenty (120) days of construction such reports will be monthly. The Developer shall submit to the Port copies of progress reports it submits to its construction lender, at the same time as the Developer submits such reports to such Mortgagee.

6.16 Insurance Requirements.

(a) Before Delivery. Before Delivery of the Site, the Developer shall procure and maintain (i) insurance coverage as required by any Permit to Enter given to the Developer by the Port, and (ii) commercial general liability insurance in the amount of One Million Dollars ($1,000,000) and otherwise upon the terms provided in the Lease.

(b) After Delivery. From and after Delivery of the Site, the Developer's requirement to maintain insurance under this Agreement will be as set forth in the Lease.

(c) Port Self-Help Right to Obtain Insurance. After five (5) days' written notice to the Developer, the Port has the right, but not the obligation, to obtain, and thereafter continuously to maintain, any insurance required by this Agreement that the Developer fails to obtain or maintain, and to charge the cost of obtaining and maintaining that insurance to the Developer; provided, however, if the Developer reimburses the Port for any premiums and subsequently provides such insurance satisfactory to the Port, then the Port agrees to cancel the insurance it obtained and to credit the Developer with any premium refund.

(d) Indemnity. The indemnification requirements under this Agreement, any permit to Enter or the Lease shall in no way be limited by any insurance requirements under any such agreements.

6.17 Port and Other Governmental Permits.

(a) Regular Track. As further provided in Section 3.09(b), the Developer has the sole responsibility for obtaining all necessary permits for the Improvements and shall make application for such permits directly to the applicable regulatory agency. The Developer shall submit to the Port a complete application for a full building permit within a time adequate to obtain the same before the date set forth in the Schedule of Performance for Delivery, taking into account normal processing time by the Port and notwithstanding the dates set forth in the Schedule of Performance for submission of Construction Documents. Upon any such submission, the Developer shall prosecute the application diligently to issuance.

(b) Site Permit.

(i) The so-called "Site Permit" method of permit approval for construction of improvements allows construction to begin with an approved site permit and addenda. Construction may continue to completion through the issuance of addenda covering the remaining aspects and phases of construction not provided for under the initial approved portion of the building permit. The Port is willing to allow the Site Permit construction of Improvements at the election of the Developer, provided that the Developer proceeds diligently and strictly in accordance with this Section and that the use of Site Permit will not delay the dates set forth in the Schedule of Performance for commencement or completion of construction.

(ii) Under the Site Permit process, only the site permit and addenda required for commencement of construction are required to satisfy the building permit condition to Delivery.

(iii) If the Developer elects to use the Site Permit for any portion of the Improvements, the following provisions shall apply:

(A) The Developer shall notify the Port in writing of its election to do so at any time after the Port's approval of the Developer's Schematic Drawings.

(B) The Port will review the schedule and sequence promptly, and, within ten (10) days of receipt, will advise the Developer in writing whether or not the Port believes that such schedule and sequence (i) comply with applicable building code requirements and provide the Port with adequate processing time, and (ii) would delay the construction commencement date or the Completion of the Improvements beyond the dates in the Schedule of Performance for commencement and Completion in accordance with a full building permit process. If the Port reasonably believes the schedule and sequence do not so comply or

that such a delay would result, it will specify the basis for such belief. Failure of the Port to respond will be deemed to be approval of the schedule and sequence.

(C) If the Port disapproves of the schedule or sequence in accordance with this Section, the Port will meet and consult with the Developer to revise the schedule or sequence to make them acceptable to the Port.

(D) If the schedule and sequence are approved or deemed approved, the Port will notify the Developer in writing of the Port's required Final Construction Document submission schedule. Such schedule shall be consistent with the schedule for permit addenda submissions, advising which documents shall be approved by the Port as a condition of approving each permit addendum, commencing with the Site Permit. The Developer acknowledges that the Port's approval of such submissions is a condition precedent to issuance of any permit addenda.

(iv) If the Developer objects to the Port's schedule for Final Construction Documents submittal and review, the Developer shall make its objections known to the Port in writing within seven (7) days of receipt of the Port schedule.

(v) If the requirements above have been satisfied and if the Port and the Developer have agreed to a Final Construction Documents submission schedule, the Developer will be relieved of the requirement to submit a full set of Final Construction Documents at the time specified in the Schedule of Performance. In lieu of such requirement, the Final Construction Documents shall be submitted sequentially in accordance with the agreed-upon schedule established above. The Schedule of Performance will be deemed to be amended accordingly.

(vi) The Developer may request that the Port modify the Preliminary Construction Document submittal or approval process to accommodate the Site Permit schedule. If the Port agrees to such modifications, the Port will make its submission schedule consistent with the schedule for permit addenda submissions.

(vii) If the Site Permit or any addenda are not issued or will not be issued in accordance with the Port-approved schedule, the Developer will advise the Port in writing within three (3) days of such fact and state what it believes to be the reason for the delay. The Port may then conduct its own investigation with the Developer as to the reason for the delay. If the Port determines that the delay is due to acts or omissions of the Developer or was contributed to by the Developer, the Port will advise the Developer. The Developer shall then take all steps and prepare all documents required for the issuance of the permit addenda within forty-five (45) days of the original permit addenda issuance date.

(viii) If the Developer so decides, it may change from the Site Permit to regular building permit at any time before commencement of construction by electing to do so in written notice to the Port. However, such a change may be made only if the Port

determines that the change will not delay the commencement and completion of construction dates specified in the Schedule of Performance for the regular building permit process and that Construction Document review by the Port can be accommodated reasonably and in sufficient time for issuance of a full building permit and timely commencement of construction. The Port's determination will be final.

(ix) The Port's review of Final Construction Documents shall be limited to (A) a determination of consistency with the Preliminary Construction Documents with respect to matters within the scope of the Port's review and approval as set forth in Section 6.07, including satisfaction of any conditions to the Port's approval of the Preliminary Construction Documents, and (B) review in its regulatory capacity as issuer of the Site Permit and addenda thereto under the Port's building code.

6.18 Port Rights of Access.

The Port and its Agents will have the right of access to the Site to the extent necessary to carry out the purposes of this Agreement, including, but not limited to, the inspection of the work being performed in constructing the Improvements. The Port will provide the Developer upon request with a copy of any written reports prepared by the Port or its Agents with respect to the Site under any such inspection, subject to withholding documents otherwise privileged or confidential. The Port disclaims any warranties, representations and statements made in any such reports, will have no liability or responsibility with respect to any such warranties, representations and statements, and will not be estopped from taking any action (including, but not limited to, later claiming that the construction of the Improvements is defective, unauthorized or incomplete) nor be required to take any action as a result of any such inspection.

6.19 Prevailing Wages (Labor Standards).

Although the Parties acknowledge that the development of the Project is a private work of improvement, the Developer agrees to pay or cause to be paid prevailing rates of wages for all construction work done in connection with the construction of the Improvements in accordance with the requirements set forth in Attachment 13.

6.20 Construction Signs and Barriers.

The Developer shall provide appropriate construction barriers and construction signs and post the signs on the Site during the period of construction. The size, design and location of such signs and the composition and appearance of any non-moveable construction barriers shall be submitted to the Port for approval before installation, which approval may not be withheld unreasonably. Failure by the Port to disapprove any such submission within thirty (30) days will be deemed approval.

6.21 Coordination.

The Developer shall use reasonable efforts to coordinate its construction efforts with those of others engaged in construction on South Beach Park and Mission Bay in a manner that will seek, to the extent reasonably possible, to reduce construction conflicts.

6.22 Damage and Destruction.

If at any time between the Close of Escrow and the end of the DDA Term, a fire or other casualty damages or destroys the Site or Initial Improvements, or any portion of the Site or Initial Improvements, the obligations of the Parties shall be governed by Section 12 of the Lease. If any such casualty occurs during the DDA Term before the Close of Escrow, the obligations of the Parties shall be governed by Section 4.01(a) of this Agreement.

6.23 Construction Staging.

(a) General. If at any time during the DDA Term the Developer needs staging areas on other Port property that the Port determines is available for such purpose, the Developer shall obtain a Permit to Enter from the Port on terms and conditions as are mutually acceptable to the Parties, including such insurance, surety and indemnification requirements as the Port may determine are appropriate for such entry.

(b) Wharfage. If during construction of the Initial Improvements the Developer needs to use barges, tugs, floating cranes or other construction equipment that would involve use of the Channel area, then the Developer shall first obtain a license therefor from the Port's Chief Wharfinger.

(c) Park Access Area. Following Delivery and during the DDA Term, the Developer may use the Park Access Area for staging subject to the terms and conditions of the OPA.

ARTICLE 7 - CERTIFICATE OF COMPLETION.

7.01 Certificate of Completion.

(a) Issuance Process.

(i) Before issuance by the Port of a Certificate of Completion, the Developer may not occupy the Improvements on the Site, or any portion of the Improvements, except for construction purposes or in accordance with Section 7.04.

(ii) After the construction of the Improvements on the Site has been Completed by the Developer in accordance with all the provisions of this Agreement, including, but not limited to, the Scope of Development and the Schedule of Performance, the

Developer may request a Certificate of Completion in writing. The Port shall act on the Developer's request within thirty (30) days of receipt.

(iii) The Port's issuance of any Certificate of Completion does not relieve the Developer or any other Person from any and all requirements or conditions of any Regulatory Approval of any agency (including the Port) to occupancy of any Improvement. The Developer shall comply with all such requirements or conditions separately.

(b) Condition to Approval. If there remain uncompleted (i) customary punch list items, (ii) landscaping, (to the extent (i) and (ii) are subject to the Port's approval), or (iii) exterior finishes (to the extent the Developer can demonstrate to the Port's reasonable satisfaction that such finishes would be damaged during the course of later construction of interior improvements), (collectively "Deferred Items"), the Port may reasonably condition approval upon provision of security or other assurances in form, substance and amount satisfactory to the Port that all the Deferred Items will be completed in a timely fashion. Such security may include a letter of credit (in a form and issued by an institution acceptable to the Port) or funds in an escrow account acceptable to the Port (with joint escrow instructions acceptable to both Parties) in the amount of one hundred ten percent (110%) of the cost of completion of the Deferred Items as reasonably determined by the Port.

(c) Definition of Completed. For purposes of the Port's issuance of a Certificate of Completion in accordance with the provisions of Section 7.01(a), "Completed" means completion by the Developer of all aspects of the Improvements for which the Port's approval is required in accordance with the approved Construction Documents, or provision of security satisfactory to the Port for Deferred Items under Section 7.01(b), and issuance of applicable certificates of occupancy, together with completion of all improvements which are required for occupancy of the Project under the conditions of any Regulatory Approvals needed for development of the Project (excluding conditions, if any, for which the City, Port or Agency is responsible under this Agreement (including its Attachments)).

(d) Specific Approvals Controlling. With respect to the Port's determination of whether or not the Improvements are Completed for purposes of this Agreement, in the event of any inconsistencies between (i) the Final Construction Documents as approved by the Port, or (ii) any specific Port approvals of required submissions, and the Scope of Development (or the Mitigation Measures, to the extent applicable to the initial construction of the Improvements), the Port approved Final Construction Documents or approved submissions, as applicable, will govern.

7.02 Form and Effect of Certificate.

(a) Form of Certificates. The Certificate of Completion, Attachment 12, will be in a form which permits it to be recorded in the Official Records. For purposes of this Agreement, the Certificate of Completion will be a conclusive determination of

Completion of the Improvements (except for completion of Deferred Items) and of the right to occupy all of the Improvements in accordance with the terms of the Lease.

(b) Effect. The Certificate of Completion will not constitute evidence of compliance with or satisfaction of any obligation of the Developer to any holder of a mortgage, or any insurer of a mortgage securing money loaned to finance the Improvements, or any part of the Improvements. The Certificate of Completion is not a notice of completion as referred to in Section 3093 of the California Civil Code, and is not in lieu of a certificate of occupancy to be issued by the Port in its regulatory capacity, which is separately required for occupancy.

(c) Termination of Agreement Upon Recordation. Recording of the Certificate of Completion by the Port (or by the Developer at the written request and authorization of the Port) will terminate this Agreement, and shall have the force and effect of a quitclaim deed by Port of its interest in this Agreement. At the request of the Developer, following recordation of a Certificate of Completion, the Port will execute and acknowledge a quitclaim or other documentation, in form reasonably satisfactory to the Port, as may be required by any title company to confirm the complete termination of this Agreement.

7.03 Failure to Issue.

If the Port refuses or fails to furnish a Certificate of Completion, the Port shall provide the Developer with a written statement specifying the reasons the Port refused or failed to furnish the Certificate and identifying the items the Developer shall complete or requirements it shall satisfy to obtain a Certificate of Completion.

7.04 Permission for Phased Occupancy.

The Developer may request permission to occupy portions of the Site before the issuance of a Certificate of Completion. Each such request shall specify the portions of the Site which the Developer wishes to occupy and the date of intended occupancy. The Port will approve such occupancy and issue an estoppel letter in form and substance reasonably satisfactory to the Parties within five (5) business days of such request if the Port has issued temporary certificates of occupancy for such portions of the Site and no Developer Event of Default or Unmatured Event of Default exists.

ARTICLE 8 - ENCUMBRANCES AND LIENS.

8.01 No Mortgage Except Under the Lease.

(a) No Mortgage of Fee. The Developer may not under any circumstance engage in any financing or other transaction creating any mortgage, lien or other encumbrance on the Port's fee interest in the Site. Neither the Port's fee interest in the Site nor

the Tidelands Trust shall be subordinated under any circumstance whatsoever to any Mortgage allowed under the Lease.

(b) Limitations on Mortgaging. Except as expressly permitted in the Lease, the Developer may not:

(1) engage in any financing or other transaction creating any mortgage or deed of trust or mechanic's lien on the Developer's leasehold estate in the Site or its interest in the Improvements; or

(2) place or suffer to be placed on the Developer's leasehold estate in the Site, any lien or other Encumbrance (other than a lien for taxes levied but not delinquent or payable with penalty or as to which a permitted contest as described below is occurring).

(c) Effect of Unpermitted Mortgage. Any mortgage, encumbrance or lien not permitted by this Article is a violation of this covenant on the date of its execution or filing of record regardless of whether or when it is foreclosed or otherwise enforced.

(d) Contests. The Developer will be permitted to contest the validity or amount of any tax, assessment, encumbrance or lien and to pursue any remedies associated with such contest; provided, however, such contest and pursuit of remedies does not subject the Site or any portion of it to forfeiture or sale and such contest shall be subject to all of the terms and conditions of the Lease, including, but not limited to, the provision of security.

8.02 Leasehold Liens.

Following Delivery of the Site, the Developer shall have the right to assign, mortgage or encumber all of its right, title and interest in the Site by way of leasehold mortgages, deeds of trust or other security instruments of any kind to the extent permitted in the Lease. In addition, the Developer may assign, mortgage or encumber its interest under this Agreement to any Mortgagee under a Mortgage permitted under the Lease, and in such event all of the provisions set forth in the Lease relating to the rights of Mortgagees shall also apply to the rights and obligations of the Developer and the Port under this Agreement.

ARTICLE 9 - PROGRAM IN DIVERSITY.

9.01 Program in Diversity.

The Developer is committed to affording opportunities for minority-owned enterprises, women-owned enterprises, and economically disadvantaged local businesses to participate in the development of the Improvement, and agrees to implement the Program in Diversity contained in Attachment 14 as to the Site and any Improvements on the terms and conditions set forth in such attachment.

ARTICLE 10 - ASSIGNMENT AND TRANSFER.

10.01 Prohibition Against Transfer of the Agreement or Significant Change.

The Developer may not sell, convey, assign, transfer, alienate or otherwise dispose of all or any of its interest or rights in this Agreement, including, but not limited to, any right or obligation to acquire a leasehold estate in the Site, develop the Site or otherwise do any of the above or make any contract or agreement to do any of the same ("Transfer"), or permit a Significant Change to occur, without in each instance obtaining the prior written approval of the Port, except that (i) a Transfer or Significant Change shall be permitted on and after Delivery, in conjunction with a Transfer or Significant Change permitted by the Lease or approved by the Port in accordance with the Lease and (ii) the Port shall not unreasonably withhold consent to a Transfer or Significant Change prior to Delivery if (y) the Developer after such Transfer or Significant Change meets the Transferee Criteria (as defined in the Lease), and (z) the Team Owner (or its successor as owner of the Franchise) retains the power to direct the affairs or management of the Developer, whether by contract, operation of law or otherwise. Consent to any one Transfer or Significant Change will not be a waiver of the Port's right to require such consent for each and every Transfer or Significant Change. The Developer shall reimburse the Port for its reasonable costs of reviewing a proposed Transfer, as provided in the Lease.

10.02 Effect of Violation.

(a) Event of Default. Any Transfer or Significant Change made in violation of Section 10.01 is an Event of Default from and after the time of Transfer or Significant Change, without necessity of the Port's giving of notice or the passage of time.

(b) No Release of Obligations. Except as expressly provided in the Lease or by the specific written approval of the Port, which the Port may give or withhold in its sole discretion, no Transfer or Significant Change will relieve the Developer or any other party from any obligations under this Agreement or the Lease.

ARTICLE 11 - DEFAULTS, REMEDIES AND TERMINATION.

11.01 Before Delivery.

If Escrow is not in condition to permit Delivery of the leasehold estate at the time established for closing under this Agreement due to an Event of Default, either Party who has performed fully the acts to be performed by it before Delivery, or whose performance has been excused, may terminate this Agreement by written notice and demand the return of its money, papers or documents deposited in Escrow (except as otherwise provided in this Agreement with regard to the DDA Extension Fee); provided, however, the other Party will have thirty (30) days after such notice to perform any acts required of it to permit Delivery. If neither the Port nor the Developer has performed fully with respect to Delivery before the time established therefor, the

Title Company will be instructed (except as otherwise provided in this Agreement with regard to the DDA Extension Fee) to return all documents and funds deposited with it to the respective Parties thirty (30) days after such time, unless within such thirty (30) day period both Parties shall have performed fully all their obligations with respect to Delivery, in which case the Title Company will be instructed to carry out its instructions without regard to such thirty (30) day delay.

11.02 Events of Default - Developer.

The following constitute Events of Default by the Developer:

(a) subject to Force Majeure, the Developer fails to commence promptly, or after commencement fails to prosecute diligently to Completion, the construction of the Improvements to be constructed on the Site under the Scope of Development on or before the required completion dates set forth in the Schedule of Performance, or abandons or substantially suspends construction of the Improvements for more than thirty (30) consecutive days, and such failure, abandonment or suspension continues for a period of: (i) thirty (30) days from the date of written notice from the Port as to failure to commence construction; or (ii) sixty (60) days from the date of written notice from the Port as to abandonment, suspension or a failure to complete construction of the Improvements in accordance with Article 7, except for Deferred Items, if any;

(b) the Developer fails to pay any amount required to be paid under this Agreement when due and such failure continues for ten (10) days following written notice from the Port to the Developer;

(c) the Developer does not accept Delivery of the Site under this Agreement within the times set forth in this Agreement, provided that all pre-Delivery conditions to the Developer's obligation to accept Delivery have been satisfied, and such failure continues for a period of five (5) business days after written notice from the Port;

(d) the Developer fails to perform its obligations under the Program in Diversity, or the Prevailing Wage Provisions; provided, however, that any rights to cure and the Port's remedies for any default under Program in Diversity the or Prevailing Wage Provisions will be only as set forth in such provisions;

(e) the Developer does not submit such of the Construction Documents as are required to be submitted within the times provided in this Agreement and the Schedule of Performance or by any permitted Site Permit, and the Developer does not cure such default within thirty (30) days after the date of written demand by the Port to the Developer;

(f) after Delivery of the Site, the Developer commits an Event of Default under the Lease, as Event of Default is defined in the Lease, subject, however, to the rights of any Mortgagee under the Lease;

(g) Prior to Delivery of the Site (after Delivery, such obligations being governed by the Lease), the Developer (1) fails to perform its obligations under the Caltrans Indemnity Agreement or any other agreement with the State with respect to any terminations of the tenancies on the Caltrans Parcel and such failure to perform exposes the Port to any material liability, in the Port's reasonable judgment, or impairs the obligation of the State to convey the Caltrans Parcel to the Port under the Caltrans Parcel Purchase Agreement or (2) fails to perform under the Original Port Indemnification Agreement, and, in either case, the Developer does not cure such failure (including cure of any impairment of the obligation of the State to convey the Caltrans Parcel to the Port under the Caltrans Parcel Purchase Agreement) within ten (10) days after written demand from the Port to the Developer;

(h) the Developer defaults under any of its obligations under the OPA and fails to cure any such default within any grace period granted in this Agreement; or

(i) the Developer files a petition for relief, or an order for relief is entered against the Developer, in any case under applicable bankruptcy or insolvency law, or any comparable law that is now or hereafter may be in effect, whether for liquidation or reorganization, which proceedings if filed against the Developer are not dismissed or stayed within sixty (60) days;

(j) a writ of execution is levied on this Agreement which is not released within sixty (60) days, or a receiver, trustee or custodian is appointed to take custody of all or any material part of the property of the Developer, which appointment is not dismissed within sixty (60) days; provided, however, the appointment of a receiver pursuant to the exercise by a Mortgagee of its rights under a Mortgage shall not be an event of default hereunder;

(k) the Developer makes a general assignment for the benefit of its creditors;

(l) Tenant fails to maintain the insurance required pursuant to Section 6.6(a), or fails to deliver certificates or policies as required pursuant to that Section, and such failure continues for five (5) days following written notice from the Port to the Developer; and

(m) without limiting any other provisions of this Section, the Developer violates any other covenant, or fails to perform any other obligation to be performed by the Developer under this Agreement (including, but not limited to, any Improvement Measures and any Mitigation Measures) at the time such performance is due, and such violation or failures continues without cure for more than thirty (30) days after written notice from the Port specifying the nature of such violation or failure, or, if such cure cannot reasonably be completed within such thirty (30) day period, if Developer does not within such thirty (30) day period commence such cure, or having so commenced, does not prosecute such cure with diligence and dispatch to completion within a reasonable time thereafter.

11.03 Remedies of Port.

Upon the occurrence of an Event of Default by the Developer, the Port has the remedies set forth below, subject to the rights of Mortgagees under Section 42 of the Lease:

(a) Termination. The Port may terminate this Agreement upon ten (10) days' written notice to Developer.

(b) Specific Performance. The Port may institute an action for specific performance.

(c) Damages. The Developer shall be liable to the Port for actual damages, provided that the Developer shall not be liable for any consequential or incidental damages.

(d) Other Remedies. Subject to the limitation in subsection (c), the Port is entitled to all other remedies permitted by law or at equity or under this Agreement, including the DDA Termination Fee.

(e) Additional Remedies of the Port. The remedies provided for in this Agreement are in addition to and not in limitation of other remedies including, but not limited to, those provided in (i) the Lease, (ii) the Non-Relocation Agreement and the Guaranty, (iii) the Program in Diversity, and (iv) the Prevailing Wage Provisions.

11.04 Events of Default - Port.

The following constitute Events of Default by the Port:

(a) the Developer has satisfied the conditions to Delivery and the Port fails to Deliver the leasehold estate in the Site to the Developer where such failure is in violation of this Agreement, and continues for a period of five (5) days from the date of written notice from the Developer; or

(b) the Port fails to perform any other obligations and duties provided in this Agreement after the time for any cure or the expiration of any grace period specified therefor in this Agreement, or if no such time is specified, within thirty (30) days after the date of written demand by the Developer to the Port to perform such obligation and duty, or, in the case of a default not susceptible of cure within thirty (30) days, Port fails promptly to commence to cure such default and thereafter to prosecute diligently such cure to completion within a reasonable time.

11.05 Remedies of the Developer.

Upon the occurrence of an Event of Default by the Port, the Developer has the exclusive remedies set forth below following the expiration of applicable use periods:

(a) Termination. The Developer may terminate this Agreement upon sixty (60) days' written notice to the Port only if the Event of Default would make impossible Completion of the Improvements in accordance with the Schedule of Performance and the provisions of this Agreement.

(b) Specific Performance. The Developer may institute an action for specific performance.

(c) Damages. The Port will be liable for actual damages, provided that (i) the Port shall not be liable for any consequential or incidental damages (including, but not limited to, lost profits), and (ii) except to the extent such damages are caused by the Port's willful misconduct, the Port's liability for any obligation under this Agreement or for any claim based upon this Agreement shall not exceed the then value of the Port's interest in the Site. The Parties acknowledge that the value of the Port's interest in the Site as specified on the face of the Memorandum of Lease in the statement of value for documentary transfer tax purposes shall be the value of the Port's interest in the Site as of the date of such Memorandum. Subject to the provisions of Section 3.02(c), if the Port is required to return the DDA Extension Fee to the Developer due to a Port Event of Default, such refunded sum shall be credited against the amount of any actual damages for which the Port is liable under this Section. Nothing herein shall limit the Developer's claims under applicable law for Condemnation (as defined in the Lease).

(d) Other Remedies. Subject to the limitations in subsection (c), the Developer is entitled to all other remedies permitted by law or at equity.

(e) Nonliability of Port Members, Officials and Employees. No member, official, agent or employee of the City, including its Port, will be personally liable to the Developer, or any successor in interest, in an Event of Default by the Port or for any amount which may become due to the Developer or successor or on any obligations under the terms of this Agreement.

11.06 General.

(a) Institution of Legal Actions. Subject to the limitations contained in this Agreement, either Party may institute legal action to cure, correct or remedy any default, to recover damages for any default or to obtain any other remedy consistent with the terms of this Agreement. Such legal actions shall be instituted in the Superior Court of the City and County of San Francisco, State of California, in any other appropriate court in that City and County or, if appropriate, in the Federal District Court in San Francisco, California.

(b) Acceptance of Service of Process. In the event that any legal action is commenced by the Developer against the Port, service of process on the Port shall be made by personal service upon the Executive Director of the Port, or in such other manner as may be provided by law. In the event that any legal action is commenced by the Port against the Developer, service of process on the Developer shall be made by personal service upon the Developer at the address provided for notices or such other address as shall have been given to Port by Developer under Section 11.02, or in such other manner as may be provided by law, and will be valid whether made within or outside of the State of California.

(c) Rights and Remedies Are Cumulative. Except with respect to any rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties to this Agreement, whether provided by law, in equity or by this Agreement, are cumulative. The exercise by either Party of any one or more of such remedies will not preclude the exercise by it, at the same or a different time, of any other such remedies for the same default or breach or of any of its remedies for any other default or breach by the other Party. No waiver made by either Party with respect to the performance, or manner or time of performance, or any obligation of the other Party or any condition to its own obligation under this Agreement will be considered a waiver with respect to the particular obligation of the other Party or condition to its own obligation beyond those expressly waived to the extent of such waiver, or a waiver in any respect in regard to any other rights of the Party making the waiver or any other obligations of the other Party.

11.07 Plans and Data.

If the Port terminates this Agreement before Completion of the Improvements, the Developer shall assign and deliver to the Port any and all Construction Documents in the possession of or prepared for the Developer, for the development of the Site within thirty (30) days after written demand from the Port. The Port may use the Construction Documents for any purpose whatsoever relating to the Site, without cost or liability therefor to the Developer or any other Person; provided, however, the Port shall release the Developer and the Developer's contractor, architect, engineer and other consultants from any Losses arising out of the Port's use of such Construction Documents except to the extent such contractor, architect, engineer or other consultant is retained by the Port to complete construction. The Developer shall include in all contracts and authorizations for services pertaining to the planning and design of the Improvements an express agreement by the Person performing such services that the Port may use such Construction Documents as provided in this Section 11.07 without compensation or payment from the Port in the event such Construction Documents are delivered to the Port under the provisions of this Section 11.07, provided that the Port agrees (i) not to remove the name of the preparer of such Construction Documents without the preparer's written permission, or (ii) to remove it at their written request.

11.08 Other Rights and Remedies.

The rights and remedies given to the Port and the Developer in this Article are in addition to and not in derogation of other rights and remedies found in this Agreement and, after Delivery, in the Lease.

11.09 Return of Site.

If this Agreement terminates after Delivery due to an Event of Default by the Developer, the Developer shall, at its sole expense, return the Site to the Port in a safe condition and, at the Port's sole option, demolish the Improvements or any portion of the Improvements, repair any damage to the substructure resulting therefrom and remove all rubble from the Site and the Access Areas. Notwithstanding any such termination, the Developer shall remain responsible for any obligations with respect to the Investigation and Remediation of Hazardous Materials to the extent provided in Section 19 of the Lease.

ARTICLE 12 - SPECIAL PROVISIONS.

12.01 Non-Discrimination in City Contracts and Benefits Ordinance.

On and after Delivery of the Site, the Developer agrees that in the performance of this Agreement it shall fully comply with all provisions of Chapters 12B and 12C of the San Francisco Administrative Code, which prohibit discrimination on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of, any City employee working with, or applicant for employment with the Developer, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, all as further provided in the Lease.

12.02 Mitigation Measures; Conditions of Approval.

(a) Mitigation Measures. In order to mitigate significant environmental impacts of development of the Site, the Developer agrees that the construction of the Improvements will be in accordance with all of the Mitigation Measures attached to this Agreement which are to be performed on the part of the Developer. As appropriate, the Developer shall incorporate such Mitigation Measures into any contract for the construction or operation of the Improvements.

(b) Improvement Measures. In addition to the Mitigation Measures, the Developer shall comply with all of the attached Improvement Measures. The Parties understand and agree that such Improvement Measures are not part of the Mitigation Measures and shall not be deemed to be measures required to mitigate any significant environmental impacts associated with the Project.

12.03 MacBride Principles - Northern Ireland.

The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1, et seq. The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. The Developer acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

12.04 Tropical Hardwood Ban.

The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood or tropical hardwood product. The Developer agrees that, except as permitted by the application of Sections 12I.3.b and 12I.4.b of the San Francisco Administrative Code, the Developer shall not use or incorporate any tropical hardwood in the construction of the Improvements.

12.05 Tobacco Product Advertising Prohibition.

The Developer acknowledges and agrees that no advertising of cigarettes or tobacco products shall be allowed on the Site. The foregoing prohibition shall include the placement of the name of a company producing, selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product, or on any sign. The foregoing prohibition shall not apply to any advertisement sponsored by a state, local or nonprofit entity designed to communicate the health hazards of cigarettes and tobacco products or to encourage people not to smoke or to stop smoking.

12.06 Burma (Myanmar) Business Prohibition.

The Developer is not the government of Burma (Myanmar), a person or business entity organized under the laws of Burma (Myanmar) or a "prohibited person or entity" as defined in Section 12J.2(g) of the San Francisco Administrative Code. The Port reserves the right to terminate this Agreement for default if the Developer violates the terms of this clause. Chapter 12J of the San Francisco Administrative Code is hereby incorporated by reference as though fully set forth herein, and the failure of the Developer to comply with any applicable requirements thereof shall be deemed a material breach of this Agreement. In the event the Developer fails to comply in good faith with any of the applicable provisions of Chapter 12J of the San Francisco Administrative Code, the Developer shall be liable for liquidated damages for each violation in an amount equal to the Developer's net profit under this Agreement, or 10% of the total amount of the Agreement, or $1,000, whichever is greatest. The Developer acknowledges and agrees the liquidated damages assessed shall be payable to the Port upon

demand and may be set off against any moneys due to the City, including its Port, from the Developer under this Agreement.

ARTICLE 13 - GENERAL PROVISIONS.

13.01 Force Majeure - Extension of Time of Performance.

(a) Effect of Force Majeure. For the purpose of any of the provisions of this Agreement, including, without limitation, the Schedule of Performance, neither the Developer, the Port, nor any successor in interest (the "Delayed Party," as applicable) will be considered in breach of or default in any obligation or satisfaction of a condition to an obligation of the other Party in the event of Force Majeure.

(b) Definition of Force Majeure. "Force Majeure" means events that cause enforced delays in the Delayed Party's performance of its obligations under this Agreement, or in the satisfaction of a condition to the other Party's performance under this Agreement, due primarily to causes beyond the Delayed Party's control, including, but not restricted to: acts of God or of the public enemy; acts of the government (including any general moratorium in the issuance of permits applicable to the Site or the Improvements, but, in the absence of such a moratorium, acts of the government relating to issuance of building permits or other Regulatory Approvals are governed by subsection (d) below); fires; floods; tidal waves; epidemics; quarantine restrictions; freight embargoes; earthquakes; unusually severe weather; delays of contractors or subcontractors due to any of these causes; the unanticipated presence of Hazardous Materials or other concealed conditions on the Site that would materially and adversely impair the Developer's ability to construct the Project; substantial interruption of work because of other construction by third parties in the immediate vicinity of the Site; archeological finds on the Site; strikes, and substantial interruption of work because of labor disputes (but excluding strikes by Major League Baseball players or umpires); inability to obtain materials or reasonably acceptable substitute materials (provided that the Developer has ordered such materials on a timely basis and the Developer is not otherwise at fault for such inability to obtain materials); unlawful detainer actions or other administrative appeals, litigation or arbitration relating to the relocation of tenants or other tenants from the Site; or any Litigation Force Majeure or other administrative appeals, litigation and arbitration relating to the construction of the Project (provided that the Delayed Party proceeds with due diligence to defend such action or proceeding or take other appropriate measures to resolve any dispute that is the subject of such action or proceeding). In the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of the Developer or Port will be extended for the period of the enforced delay; provided, however, within thirty (30) days after the beginning of any such enforced delay, the Delayed Party shall have first notified the other Party in writing of the cause or causes of such delay and claimed an extension for the reasonably estimated period of the enforced delay. Notwithstanding anything to the contrary in this Section, the lack of credit or financing (unless such lack is itself a result of some other event of Force Majeure) shall not be considered to be a matter beyond Developer's control and therefore no event caused by a lack of

such financing in and of itself shall be considered to be an event of Force Majeure for purposes of this Agreement.

(c) Definition of Litigation Force Majeure. "Litigation Force Majeure" means any action or proceeding before any court, tribunal, or other judicial, adjudicative or legislative decision-making body, including any administrative appeal, brought by a third party, (a) which seeks to challenge the validity of any action taken by the City or Agency in connection with the Project, including Port's approval, execution, and delivery of this Agreement or the Lease and its performance hereunder, the Agency's approval, execution and delivery of the OPA or of any resolution of, or other action by, the City or any of its Commissions approving the Port's execution and delivery of this Agreement (or Agency's execution and delivery of the OPA), the performance of any action required or permitted to be performed by the Port or City hereunder (or by the Agency under the OPA), or any findings upon which any of the foregoing are predicated, or (b) which seeks to challenge the validity of any other Regulatory Approval. Performance by a party hereunder shall be deemed delayed or made impossible by virtue of Litigation Force Majeure during the pendency thereof, and until a judgment, order, or other decision resolving such matter in favor of the party whose performance is delayed has become final and unappealable. Under no circumstances shall the delay attributable to an event of Litigation Force Majeure extend beyond three (3) years unless such limitation is expressly waived by both Parties. The Parties shall each proceed with due diligence and shall cooperate with one another to defend the action or proceeding or take other measures to resolve the dispute that is the subject of such action or proceeding.

(d) Permits. If the Developer is diligently proceeding to obtain necessary building permits or addenda as required by Sections 6.17(a) or 6.17(b) or other Regulatory Approvals for the Improvements, Force Majeure includes the Developer's inability to obtain building permits or other Regulatory Approvals. With respect to such event of Force Majeure, time for Delivery of the Site and for commencement and Completion of Construction of the Improvements will be tolled for a period not to exceed an aggregate period of nine (9) months for delays caused in issuing such permits or other Regulatory Approvals that result in delaying the Delivery of the Site or the commencement of Construction of the Improvements in accordance with the Schedule of Performance.

(e) Limitations Before Delivery. Before Delivery of the Site, Force Majeure (other than Litigation Force Majeure) will be limited to an aggregate of one (1) year for all delays other than delays caused by the City, including its Port, or the Redevelopment Agency (which shall not be so limited), and delays in issuance of building permits or other Regulatory Approvals (which are governed by subsection (c) above); provided, however, the Developer may extend any such delay by written notice to the Port not less than thirty (30) days before the expiration of the one year delay for an additional reasonable period of up to a maximum of one (1) additional year; provided, further, that the notice shall be accompanied by evidence reasonably satisfactory to the Port that at the end of such additional delay the Team Owner will remain obligated to occupy the Ballpark under the Baseball Sublease and that the conditions of Section 2.03(c) (which relate to evidence of financing) can be met. The Port will notify the

Developer within fifteen (15) days if such evidence is satisfactory or in what respects it is not. If the Port does not notify the Developer within such period, the evidence will be deemed satisfactory. If the Port notifies the Developer within such period that the evidence is unsatisfactory, the Developer will have fifteen (15) days after such notice to provide satisfactory evidence. If the Developer fails to provide satisfactory evidence within the time required, no further delay for such events will be permitted. At any time thereafter the other Party may terminate the Agreement by giving thirty (30) days' notice to the Delayed Party.

(f) DDA Extension Fee. Notwithstanding anything to the contrary contained in this Section, in the event of Force Majeure before Delivery of the Site, the Port shall have no obligation to extend this Agreement unless the Developer satisfies its obligations to pay the DDA Extension Fee, if required, in accordance with the terms and conditions of Section 3.02(c).

13.02 Notices.

(a) Manner of Delivery. Except as otherwise expressly provided in this Agreement (and subject to Section 42.11 of the Lease regarding copies of notices to Mortgagees), all notices, demands, approvals, consents and other formal communications between the Port and the Developer required or permitted under this Agreement shall be in writing and shall be deemed given and effective (i) upon the date of receipt if given by personal delivery on a business day (or the next business day if delivered personally on a day that is not a business day) or (ii) if mailed three (3) business days after deposit with the U.S. Postal Service for delivery by United States registered or certified mail, first class postage prepaid, to the Port or the Developer at their respective addresses for notice designated below. For convenience of the Parties, copies of notices may also be given by telefacsimile to the facsimile number set forth below or such other number as may be provided from time to time by notice given in the manner required under this Agreement; however, neither Party may give official or binding notice by telefacsimile.

(b) Request for Approval. In order for a request for any approval required under the terms of this Agreement to be effective, it shall be clearly marked "Request for Approval" and state (or be accompanied by a cover letter stating) substantially the following:

(1) the section of this Agreement under which the request is made and the action or response required;

(2) if applicable, the period of time within which the recipient of the notice shall respond; and

(3) if applicable, that the failure to object to the notice within the stated time period will be deemed to be the equivalent of the recipient's approval of or consent to the request for approval which is the subject matter of the notice.

In no event shall a recipient's approval of or consent to the subject matter of a notice be deemed to have been given by its failure to object to such notice if such notice (or the accompanying cover letter) does not comply with the requirements of this Section.

(c) Addresses for Notices. All notices shall be properly addressed and delivered to the Parties at the addresses set forth below or at such other addresses as either Party may designate by written notice given in the manner provided in this Section:

To Port:
San Francisco Port Commission
(Reference: China Basin Ballpark)
3100 Ferry Building
San Francisco, California 94111
Attention: Executive Director
Facsimile: (415) 274-0412

with a copy to:
Mayor
(Reference: China Basin Ballpark)
City and County of San Francisco
City Hall
San Francisco, CA 94102
Facsimile: (415) 554-6160

and to:
City Attorney
(Reference: China Basin Ballpark)
Fox Plaza
1390 Market Street, 5th Floor
San Francisco, California 94102-5408
Facsimile: (415) 554-4248

and to:
Port General Counsel
(Reference: China Basin Ballpark)
3100 Ferry Building
San Francisco, California 94111
Facsimile: (415) 274-0494

To Developer:
China Basin Ballpark Company LLC
3 Com Park at Candlestick Point
San Francisco, CA 94124
Attention: President
Facsimile: (415) 467-2140

with a copy to: China Basin Ballpark Company LLC
3 Com Park at Candlestick Point
San Francisco, CA 94124
Attention: General Counsel
Facsimile: (415) 330-2697

and to: Coblentz, Cahen, McCabe & Breyer
(Reference: China Basin Ballpark Company)
222 Kearny Street, Suite 700
San Francisco, California 94108
Facsimile: (415) 989-1663

13.03 Conflict of Interest.

No member, official or employee of the City, including its Port, may have any personal interest, direct or indirect, in this Agreement nor shall any such member, official or employee participate in any decision relating to this Agreement which affects her or his personal interest or the interests of any corporation, partnership or association in which she or he is interested directly or indirectly.

13.04 Estoppel Certificates.

(a) Content. Within ten (10) business days after notice from the other Party, each Party will execute and deliver to the other Party an estoppel certificate certified by the Party executing it and containing the following information as to the Site and any Improvements, to the best of the certifying Party's knowledge and belief:

(1) whether or not this Agreement is unmodified and in full force and effect. (If there has been a modification of this Agreement the certificate shall state that this Agreement is in full force and effect as modified and shall identify the modification or, if this Agreement is not in full force and effect, the certificate shall so state.);

(2) whether or not the certifying Party contends that the other Party is in default under this Agreement in any respect;

(3) whether or not there are then existing set-offs or defenses against the enforcement of any right or remedy of any Party, or any duty or obligation of the certifying Party; and

(4) any other matter directly related to this Agreement and reasonably requested by the requesting Party.

(b) Reliance. It is intended that any such certificate delivered under this Section may be reasonably relied upon by the requesting Party and any prospective assignee, lessee, purchaser, Mortgagee or other encumbrancer of the requesting Party's interest in the Site.

13.05 Inspection of Books and Records.

The Port, including its Agents, has the right at all reasonable times and from time to time to inspect the books and records of the Developer pertaining to the Developer's compliance with its obligations under this Agreement, provided that the Port shall, to the maximum extent allowed by applicable law, keep strictly confidential such any information which the Developer reasonably and in good faith determines is proprietary.

13.06 Annual Certification.

On or before April 1 of each year during the DDA Term, the Developer shall deliver to the Port: (1) a certificate executed by a duly authorized officer of the Developer, certifying that (i) the Developer is in compliance with all of its financial and other material covenants under agreements with its Mortgagee(s) (or if the Developer is not in compliance, stating the particulars of such non-compliance), and (ii) all of its representations and warranties set forth in Section 13.22 of this Agreement remain true and correct as of the date of such certificate (or if they do not, stating the particulars with respect thereto); and (2) unless Developer, despite its best efforts, cannot obtain such a statement, of opinion from an independent certified public accounting firm, subject to such qualifications as such firm in its professional judgment deems necessary, that as of the close of such fiscal year, the Developer is (or is not) in compliance with its financial covenants under its Mortgage(s) and all of its other loan agreements with its Mortgagee(s). In addition, from time to time during the DDA Term, the Port may request that the Developer provide the certificate described in clause (1) above. The Developer shall provide any such additional certificate within a reasonable time after such request, and in any event within ninety (90) days after such request.

13.07 Time of Performance.

(a) Expiration. All performance dates (including cure dates) expire at 5:00 p.m., San Francisco, California time, on the performance or cure date.

(b) Weekends and Holidays. A performance date which falls on a Saturday, Sunday or City holiday is deemed extended to the next working day.

(c) Days for Performance. All periods for performance specified in this Agreement in terms of days shall be calendar days, and not business days, unless otherwise expressly provided in this Agreement.

(d) Time of the Essence. Time is of the essence with respect to each required completion date in the Schedule of Performance, subject to the provisions of Section 13.01 relating to Force Majeure.

13.08 Interpretation of Agreement.

(a) Exhibits. Whenever an "Attachment" is referenced, it means an attachment to this Agreement unless otherwise specifically identified. All such Attachments are incorporated in this Agreement by reference.

(b) Captions. Whenever a section, article or paragraph is referenced, it refers to this Agreement unless otherwise specifically identified. The captions preceding the articles and sections of this Agreement and in the table of contents have been inserted for convenience of reference only. Such captions shall not define or limit the scope or intent of any provision of this Agreement.

(c) Words of Inclusion. The use of the term "including," "such as" or words of similar import when following any general term, statement or matter shall not be construed to limit such term, statement or matter to the specific items or matters, whether or not language of non-limitation is used with reference thereto. Rather, such terms shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such statement, term or matter.

(d) No Presumption Against Drafter. This Agreement has been negotiated at arm's length and between Persons sophisticated and knowledgeable in the matters dealt with herein. In addition, each Party has been represented by experienced and knowledgeable legal counsel. Accordingly, this Agreement shall be interpreted to achieve the intents and purposes of the Parties, without any presumption against the Party responsible for drafting any part of this Agreement (including, but not limited to California Civil Code Section 1654).

(e) Costs and Expenses. The Party on which any obligation is imposed in this Agreement shall be solely responsible for paying all costs and expenses incurred in the performance of such obligation, unless the provision imposing such obligation specifically provides to the contrary.

(f) Agreement References. Wherever reference is made to any provision, term or matter "in this Agreement," "herein" or "hereof" or words of similar import, the reference shall be deemed to refer to any and all provisions of this Agreement reasonably related thereto in the context of such reference, unless such reference refers solely to a specific numbered or lettered Article, section or paragraph of this Agreement or any specific subdivision of this Agreement.

(g) Approvals. Unless this Agreement otherwise expressly provides or unless the City's Charter otherwise requires, all approvals, consents or determinations to be made by or on behalf of the City or the Port under this Agreement shall be made by the Port's Executive Director.

13.09 Successors and Assigns.

This Agreement is binding upon and will inure to the benefit of the successors and assigns of the Port, the Developer and any Mortgagee, subject to the limitations on assignment set forth in Article 10. Where the term "Developer," "Port" or "Mortgagee" is used in this Agreement, it means and includes their respective successors and assigns, including, as to any Mortgagee, any transferee and any successor or assign of such transferee. Whenever this Agreement specifies the Port as a Party or the holder of the right or obligation to give approvals or consents, if the Port or a comparable public body which has succeeded to Port's rights and obligations no longer exists, then the City (or the State, if applicable) will be deemed to be the successor and assign of the Port for purposes of this Agreement.

13.10 No Third Party Beneficiaries.

This Agreement is made and entered into for the sole protection and benefit of the Parties and their successors and assigns. No other Person shall have or acquire any right or action based upon any provisions of this Agreement except as otherwise provided in Section 42 of the Lease with respect to permitted Mortgagees and as provided in Sections 4.02 and 11.07 and any other indemnities, releases or payment obligations in favor of the Redevelopment Agency.

13.11 Real Estate Commissions.

The Developer and the Port each represents that it engaged no broker, agent or finder in connection with this transaction. In the event any broker, agent or finder makes a claim, the Party through whom such claim is made agrees to Indemnify the other Party from any Losses arising out of such claim.

13.12 Counterparts.

This Agreement may be executed in counterparts, each of which is deemed to be an original, and all such counterparts constitute one and the same instrument.

13.13 Entire Agreement.

This Agreement (including the Attachments) constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the

terms and conditions mentioned in or incidental to this Agreement. No parole evidence of any prior of other agreement shall be permitted to contradict or vary the terms of this Agreement.

13.14 Amendment.

Neither this Agreement nor any of its terms may be terminated, amended or modified except by a written instrument executed by the Parties, subject to the approval of permitted Mortgagees as required under this Agreement or Section 42 of the Lease.

13.15 Governing Law.

The laws of the State of California shall govern the interpretation and enforcement of this Agreement. As part of the consideration for the Port's entering into this Agreement, the Developer agrees that all actions or proceedings arising directly or indirectly under this Agreement may, at the sole option of the Port, be litigated in courts having situs within the State of California, and the Developer expressly consents to the jurisdiction of any such local, state or federal court, and consents that any service of process in such action or proceeding may be made by personal service upon the Developer wherever the Developer may then be located, or by certified or registered mail directed to the Developer at the address set forth in Section 13.02 for the delivery of notices.

13.16 Recordation.

A memorandum of this Agreement (Attachment 17) will be recorded by the Developer in the Official Records on or after the Effective Date. The Developer shall promptly upon request deliver to Port a duly executed and acknowledged quitclaim deed, suitable for recordation in the Official Records and in form and content satisfactory to the Port and the City Attorney, for the purpose of effecting the termination of the Developer's interest under this Agreement upon the termination of this Agreement. The Port may record such quitclaim deed at any time on or after the termination of this Agreement, without the need for any approval or further act of the Developer.

13.17 Extensions by Port.

Upon the request of the Developer, the Port, acting through its Executive Director, may, by written instrument, extend the time for Developer's performance of any term, covenant or condition of this Agreement or permit the curing of any default upon such terms and conditions as it determines appropriate, including but not limited to, the time within which the Developer shall agree to such terms or conditions, provided, however, any such extension or permissive curing of any particular default will not operate to release any of the Developer's obligations nor constitute a waiver of the Port's rights with respect to any other term, covenant or condition of this Agreement or any other default in, or breach of, this Agreement or otherwise effect the time of the essence provisions with respect to the extended date or the other dates for performance under this Agreement.

13.18 Further Assurances.

The Parties agree to execute and acknowledge such other and further documents as may be necessary or reasonably required to express the intent of the Parties or otherwise effectuate the terms of this Agreement. The Port's Executive Director, or his or her designee, is authorized to execute on behalf of the Port any closing or similar documents and any contracts, agreements, memoranda or similar documents with State, regional or local entities or other Persons that are necessary or proper to achieve the purposes and objectives of this Agreement and do not materially increase the obligations of the Port under this Agreement, if the Executive Director determines, in consultation with the City Attorney, that the document is necessary or proper and in the Port's best interests. The Executive Director's signature of any such document shall conclusively evidence such a determination by him or her.

13.19 Attorneys' Fees.

If either Party fails to perform any of its respective obligations under this Agreement or if any dispute arises between the Parties hereto concerning the meaning or interpretation of any provision of this Agreement, then the defaulting Party or the Party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other Party on account of such default or in enforcing or establishing its rights under this Agreement, including, without limitation, court costs and reasonable Attorneys' Fees and Costs. Any such Attorneys' Fees Costs incurred by either Party in enforcing a judgment in its favor under this Agreement shall be recoverable separately from and in addition to any other amount included in such judgment, and such Attorneys' Fees and Costs obligation is intended to be severable from the other provisions of this Agreement and to survive and not be merged into any such judgment. For purposes of this Agreement, the reasonable fees of attorneys of the Office of City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the City Attorney's Office.

13.20 Relationship of Parties.

The subject of this Agreement is a private development with neither Party acting as the agent of the other Party in any respect. None of the provisions in this Agreement shall be deemed to render the Port a partner in the Developer's business, or joint venturer or member in any joint enterprise with the Developer.

13.21 Severability.

If any provision of this Agreement, or its application to any Person or circumstance, is held invalid by any court, the invalidity or inapplicability of such provision shall not affect any other provision of this Agreement or the application of such provision to any other

Person or circumstance, and the remaining portions of this Agreement shall continue in full force and effect, unless enforcement of this Agreement as so modified by and in response to such invalidation would be grossly inequitable under all of the circumstances, or would frustrate the fundamental purposes of this Agreement.

13.22 Representations and Warranties of the Developer.

The Developer represents and warrants as follows, as of the Effective Date and as of the date of Delivery:

(a) Valid Existence; Good Standing. The Developer is a limited liability company duly organized and validly existing under the laws of the State of Delaware. The Developer has all requisite power and authority to own its property and conduct its business as presently conducted. The Developer has made all filings and is in good standing in the jurisdiction of Delaware and the State of California.

(b) Authority. The Developer has all requisite power and authority to execute and deliver this Agreement and the agreements contemplated by this Agreement and to carry out and perform all of the terms and covenants of this Agreement and the agreements contemplated by this Agreement.

(c) No Limitation on Ability to Perform. Neither the Developer's articles of organization or operating agreement, nor the organization documents of any of the Developer's members, nor any of the Baseball Rules and Regulations, nor any other agreement or Law in any way prohibits, limits or otherwise affects the right or power of the Developer to enter into and perform all of the terms and covenants of this Agreement. Neither the Developer nor any of its members are party to or bound by any contract, agreement, indenture, trust agreement, note, obligation or other instrument which could prohibit, limit or otherwise affect the same. No consent, authorization or approval of (except solely for the approvals of the Office of the Commissioner of Baseball, other required Major League Baseball authority, the Developer's Mortgagees and the Team Owner Lenders, all of which approvals the Developer represents and warrants that it has already obtained), or other action by, and no notice to or filing with, any governmental authority, regulatory body or any other Person is required for the due execution, delivery and performance by the Developer of this Agreement or any of the terms and covenants contained in this Agreement. There are no pending or threatened suits or proceedings or undischarged judgments affecting the Developer or any of its members before any court, governmental agency, or arbitrator which might materially adversely affect the enforceability of this Agreement or the business, operations, assets or condition of the Developer or any of its members.

(d) Valid Execution. The execution and delivery of this Agreement and the agreements contemplated hereby by the Developer has been duly and validly authorized by all necessary action. This Agreement will be a legal, valid and binding obligation of the Developer, enforceable against the Developer in accordance with its terms. The Developer has

provided to the City a written resolution of the Developer authorizing the execution of this Agreement and the agreements contemplated by this Agreement.

(e) Defaults. The execution, delivery and performance of this Agreement (i) do not and will not violate or result in a violation of, contravene or conflict with, or constitute a default under (A) any agreement, document or instrument to which the Developer or any member is a party or by which the Developer's or any member's assets may be bound or affected, (B) any law, statute, ordinance, regulation or Baseball Rules and Regulations, or (C) the articles of organization or the operating agreement of the Developer, and (ii) do not and will not result in the creation or imposition of any lien or other encumbrance upon the assets of the Developer or its members.

(f) Meeting Financial Obligations. The Developer is meeting its current liabilities as they mature; no federal or state tax liens have been filed against it; and the Developer is not in default or claimed default under any agreement for borrowed money.

The representations and warranties in this Section shall survive any termination of this Agreement.

13.23 Effective Date.

This Agreement shall become effective on the date the Parties duly execute and deliver this Agreement following approval by the City's Port Commission, Board of Supervisors and Mayor, in their respective sole and absolute discretion. The Effective Date of this Agreement will be inserted by the Port on the cover page and on Page 1 of this Agreement; provided, however, no failure by the Port to do so shall in any way invalidate this Agreement. Where used in this Agreement or in any of its attachments, references to "the date of this Agreement," the "reference date of this Agreement, " "Agreement date" or "Effective Date" will mean the Effective Date determined as set forth above and shown on Page 1 of this Agreement.

ARTICLE 14 - DEFINITIONS.

For purposes of this Agreement, initially capitalized terms shall have the meanings ascribed to them in this Article:

Access Parcels mean the Channel Access Parcel and the Waterfront Promenade Access Parcel.

Access Rights mean the access rights over the Channel Access Parcel and the Waterfront Promenade Access Parcel, as described in Section 2.01 (b).

Program in Diversity means the program for diversity concerning construction of the Improvements which the Developer has agreed to implement as described in Section 9.01 and Attachment 14.

Agents means, when used with reference to either Party to this Agreement or any other Person, the members, officers, directors, commissioners, employees, agents and contractors of such Party or other Person, and their respective heirs, legal representatives, successors and assigns.

Agreement means this Lease Disposition and Development Agreement, as it may be amended in accordance with its terms.

Attorneys' Fees and Costs means any and all attorneys' fees, costs, expenses and disbursements, including, but not limited to, expert witness fees and costs, travel time and associated costs, transcript preparation fees and costs, document copying, exhibit preparation, courier, postage, facsimile, long-distance and communications expenses, court costs and the costs and fees associated with any other legal, administrative or alternative dispute resolution proceeding, fees and costs associated with execution upon any judgment or order, and costs on appeal.

Ballpark means the open-air, natural turf baseball park designed specifically for the playing and public exhibition and enjoyment of Major League Baseball, to be constructed on the Site, as further described in the Scope of Development. The Ballpark will contain approximately 40,000 to 45,000 seats on four levels, oriented toward the Bay. The Ballpark will be a first-class, state-of-the-art facility with respect to the design, construction and operating efficiency and, while traditional and intimate in design, will incorporate modern amenities to enhance fan comfort and enjoyment.

Baseball Rules and Regulations as defined in the Lease.

Baseball Sublease means the sublease between the Developer, as sublandlord, and the Team Owner, as subtenant, for the exhibition of Major League Baseball in the Ballpark, in the form of Attachment 7.

BCDC means the Bay Conservation and Development Commission, a State agency established under the McAteer Petris Act.

Bona Fide Institutional Lender has the meaning given in the Lease.

Budget as defined in Section 2.03(c)(1).

Building Permit(s) will mean a permit or permits issued by the Port and BCDC which will allow Developer to commence Construction of the Improvements (see Section 6.17).

Building Standards as defined in Section 4.07(b).

Burton Act means the provisions of Chapter 1333 of the Statutes of 1968 of the California Legislature, as amended, providing for the transfer to the City from the State, subject to specified terms, conditions and reservations, of the control and management of the certain tide and submerged lands comprising the Harbor of San Francisco.

Burton Act Agreement means that certain Agreement Relating to Transfer of Port of San Francisco from the State of California to the City and County of San Francisco, dated January 24, 1969, entered into between the City and the State under the authority granted under the Burton Act.

Burton Act Trust means that statutory trust imposed by the Burton Act.

Caltrans means the California Department of Transportation, a State agency.

Caltrans Indemnification Agreement as defined in Section 2.02(a).

Caltrans Lost Rent as defined in Section 2.01.

Caltrans Parcel as defined in Section 2.01.

Caltrans Parcel Closing Date as defined in Section 2.02(c).

Caltrans Parcel Escrow as defined in Section 2.02(c).

Caltrans Parcel Purchase Agreement as defined in Section 2.02(a).

Caltrans Tenants means all of the private tenants, subtenants and other occupancies of the Caltrans Parcel.

Caltrans Tenant Relocation Costs as defined in Section 2.02(d).

Certificate of Completion as described in Article 6 and a form of which is attached as Attachment 12.

Channel Access Parcel as defined in Section 2.01(b) and in Attachment 1A.

City means the City and County of San Francisco, a municipal corporation. City shall refer to the City operating by and through its Port Commission, where appropriate. All references to the City shall include the Port.

Close of Escrow means the Delivery of the Site by the Port to the Developer through the Escrow.

Completion or Completed as defined in Section 7.01(c).

Conditions of Approval mean the conditions of approval relating to construction of the Project by the Developer as described in Exhibit 16.

Construction Documents as defined in Section 6.03.

CTC as defined in Section 2.02(a).

DDA Extension Fee as defined in Section 3.02(c).

DDA Term as defined in Section 1.04.

DDA Termination Fee as defined in Section 1.08(b).

Deed Restriction means the declaration of restrictions to be recorded in the Official Records restricting uses of the Site to commercial and industrial use consistent with Section 4.02(a), in the form of Attachment. 22.

Deferred Items as defined in Section 7.01(b).

Delayed Party as defined in Section 13.01.

Delivery means execution and delivery of the Lease and the delivery by the Port of a leasehold estate in the Premises under the Lease.

Developer means China Basin Ballpark Company LLC, a Delaware limited liability company or any successor permitted under this Agreement.

Development means the Site with the Improvements to be constructed thereon in accordance with the Scope of Development.

Director's Deed means that certain deed from Caltrans to the Port, conveying title to the Caltrans Parcel under the Caltrans Parcel Purchase Agreement.

Disabled Access Laws means all Laws related to access for persons with disabilities including, without limitation, the Americans with Disabilities Act, 42 U.S.C.S. §§ 12101 et seq. and disabled access laws under the Port's building code.

Effective Date as defined in Section 13.23.

Escrow as defined in Section 3.02(a).

Event of Default as defined in Article 9.

Excess Caltrans Tenant Relocation Costs as defined in Section 2.02(e).

Excused Delay as defined in Section 3.02(d).

Excused Termination as defined in Section 1.08(b).

Executive Director means the Executive Director of the Port or his or her designee.

Extended Close of Escrow as defined in Section 3.06(b).

Final Construction Documents as defined in the Scope of Development and as referred to in Sections 6.03 and 6.08.

Force Majeure as described in Section 13.01(b).

Franchise means the San Francisco Giants National League baseball franchise.

General Plan Amendments means the amendments to the City's General Plan approved by Board of Supervisor's Ordinance No. 277-97.

Guaranty means the Guaranty Agreement by the Team Owner for the benefit of the City in the form of Attachment 9.

Handle when used with reference to Hazardous Materials means to use, generate, manufacture, process, produce, package, treat, store, emit, discharge, or dispose of any Hazardous Material (Handling will have a correlative meaning).

Hazardous Material means any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to the environment. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended, (42 U.S.C. Sections 9601 et seq.) or under Section 25281 or 25316 of the California Health & Safety Code; any "hazardous waste" as defined in Section 25117 or listed under Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the structure of any existing Improvements on the Site, any Improvements to be constructed on the Site by or on behalf of the Developer, or are naturally occurring substances on, in or about the Site; and petroleum, including crude oil or any fraction, and natural gas or natural gas liquids.

Hazardous Material Claims means any and all enforcement, Investigation, Remediation or other governmental or regulatory actions, agreements or orders threatened,

instituted or completed under any Hazardous Materials Laws, together with any and all Losses made or threatened by any third party against City, including the Port, or the Redevelopment Agency, their Agents, or the Site or any Improvements, relating to damage, contribution, cost recovery compensation, loss or injury resulting from the presence, release or discharge of any Hazardous Materials, including, without limitation, Losses based in common law. Hazardous Material Claims include, without limitation, Investigation and Remediation costs, fines, natural resource damages, damages for decrease in value of the Site or any Improvements, the loss or restriction of the use or any amenity of the Site or any Improvements, and attorneys' fees and consultants' fees and experts' fees and costs.

Hazardous Material Laws means any present or future federal, state or local Laws or policies relating to Hazardous Material (including, without limitation, its Handling, transportation or Release) or to human health and safety, industrial hygiene or environmental conditions in, on, under or about the Site (including the Improvements) and any other property, including, without limitation, soil, air, air quality, water, water quality and groundwater conditions. Hazardous Materials Laws include, but not be limited to, the City's Pesticide Ordinance (Chapter 39 of the San Francisco Administrative Code), to the extent the same is as of the date of this Agreement applicable to tenants of City property, and Article 20 of the San Francisco Public Works Code ("Analyzing Soils for Hazardous Waste").

Improvements mean all physical Construction on the Site as described in the Scope of Development (including, but not limited to the Ballpark and complementary improvements) and approved by the Port as provided for in Article 6 and elsewhere in this Agreement.

Improvement Measures means the improvement measures relating to the construction of the Project by the Developer as described in Attachment 16.

Indemnified Parties means City, including, but not limited to, all of its boards, commissions, departments, agencies and other subdivisions, including, without limitation, the Port, the Redevelopment Agency, all of the Agents of the City, including its Port, and Redevelopment Agency and their respective heirs, legal representatives, successors and assigns, and each of them

Indemnify means indemnify, protect, defend and hold harmless.

Investigate or Investigation when used with reference to Hazardous Material means any activity undertaken to determine the nature and extent of Hazardous Material that may be located in, on, under or about the Site, any Improvements or any portion of this Agreement or which have been, are being, or threaten to be Released into the environment. Investigation shall include, without limitation, preparation of site history reports and sampling and analysis of environmental conditions in, on, under or about the Site or any Improvements.

Invitees as defined in the Lease.

Laws shall mean all present and future applicable laws, ordinances, rules, regulations, permits, authorizations, orders and requirements, whether or not in the contemplation of the Parties, which may affect or be applicable to the Site or any part of the Site (including, without limitation, any subsurface area, use of the Site and the buildings and Improvements on or affixed to the Site), including, without limitation, all consents or approvals required to be obtained from, and all rules and regulations of, and all building and zoning laws of, all federal, state, county and municipal governments, the departments, bureaus, agencies or commissions thereof, authorities, board of officers, any national or local board of fire underwriters, or any other body or bodies exercising similar functions, having or acquiring jurisdiction of the Site, and similarly the phrase "Law" shall be construed to mean the same as the above in the singular as well as the plural.

Lease means the Ground Lease of the Site between the Parties in the form of Attachment 5.

Loss or Losses when used with reference to any Indemnity means any and all claims, demands, losses, liabilities, damages (including foreseeable and unforeseeable consequential damages), liens, obligations, interest, injuries, penalties, fines, lawsuits and other proceedings, judgments and awards and costs and expenses (including, without limitation, reasonable Attorneys' Fees and Costs, and consultants' fees and costs) of whatever kind or nature, known or unknown, contingent or otherwise.

Major Damage as defined in Section 12 of the Lease.

Major League Baseball means, collectively, the American League and the National League of Professional Baseball Clubs as now or hereafter constituted or organized and any other league of professional baseball clubs which may be constituted from time to time and recognized as a major league authorized to play professional baseball games under Baseball Rules and Regulations.

McEnerney Actions as defined in Section 3.06(d).

Memorandum of Agreement means the memorandum of this Agreement, between the Port and the Developer, suitable for recordation in the Official Records and in the form of Attachment 17.

Memorandum of Baseball Sublease means the memorandum of the Baseball Sublease, between the Developer and the Team Owner, suitable for recordation in the Official Records and in the form of Attachment 19.

Memorandum of Lease means the memorandum of the Lease, between the Port and the Developer, suitable for recordation in the Official Records and in the form of Attachment 18.

Mitigation Measures means the mitigation measures relating to construction of the Project by the Developer as described in Attachment 15.

Mortgage as defined in the Lease.

Mortgagee as defined in the Lease.

National League means the National League of Professional Baseball Clubs, as now constituted under its existing Constitution or as it may hereafter be constituted or organized.

Non-Relocation Agreement means the agreement by the Team Owner in favor of the City, including its Port, in the form of Attachment 6.

Office of the Commissioner of Baseball means the individual selected by the owners of Major League Baseball franchises to serve as the Commissioner of Baseball, and the staff, duly authorized representatives, and employees of the Commissioner of Baseball, or any successor thereto.

Official Records mean, with reference to the recordation of documents, the Official Records of the City and County of San Francisco.

Original Port Indemnification Agreement as defined in Section 2.02(f).

Other Indemnified Parties as defined in the Lease.

OPA as defined in Section 1.07.

Park Access Parcel as defined Section 2.01(b) and in Attachment 1A.

Park Access Rights means the access rights over the Park Access Parcel as described in the Lease.

Party means Port or CBBC, as a party to this Agreement; Parties means both Port and CBBC, as parties to this Agreement.

Permit to Enter as referred to in Section 3.03.

Permitted Title Exceptions as referred to in Section 2.06(a) and attached as Attachment 10.

Person means any individual, partnership, corporation (including, but not limited to, any business trust), limited liability company, joint stock company, trust, unincorporated

association, joint venture or any other entity or association, the United States, or a federal, state or political subdivision thereof.

Plot Plan means the plot plan of the Site shown on Attachment 2.

Port means the City and County of San Francisco acting by and through the San Francisco Port Commission.

Preliminary Construction Documents as defined in the Scope of Development and as referred to in Sections 6.03 and 6.08.

Prevailing Wage Provisions mean the provisions described in Section 6.19 and Attachment 13.

Project means the development of the Ballpark and other related Improvements described in the Scope of Development.

Project Requirements as defined in Section 6.04.

Redevelopment Agency means the Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic, established under the Community Redevelopment Law of the State of California.

Redevelopment Plan means the Rincon Point-South Beach Redevelopment Plan, as amended, as more particularly described in the OPA, including any further amendments, extensions or renewals of such plan as may be approved by the City.

Redevelopment Plan Amendment means the amendments to the Redevelopment Plan adopted by Board of Supervisors Ordinance No. 276-97.

Redevelopment Project Area means the Rincon Point-South Beach Redevelopment Project Area as described in the Redevelopment Plan.

Regulatory Approval means any authorization, approval or permit required by any governmental agency having jurisdiction over the Site, including, but not limited to, BCDC, RWQCB, the Coast Guard and the Army Corps of Engineers.

Release when used with respect to Hazardous Material means any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or inside any existing improvements or any Improvements constructed under this Agreement by or on behalf of the Developer, or in, on, under or about the Site or any portion of the Site.

Relocation Assistance Act as defined in Section 2.03(a).

Remediate or Remediation when used with reference to Hazardous Materials means any activities undertaken to clean up, remove, contain, treat, stabilize, monitor or otherwise control Hazardous Materials located in, on, under or about the Site or which have been, are being, or threaten to be Released into the environment. Remediation includes, without limitation, those actions included within the definition of "remedy" or "remedial action" in California Health and Safety Code Section 25322 and "remove" or "removal" in California Health and Safety Code Section 25323.

RWQCB as defined in Section 4.02(a).

Schedule of Performance as attached hereto as Attachment 4.

Schematic Drawings as defined in the Scope of Development and as referred to in Section 6.03 and Section 6.08.

Scope of Development as attached hereto as Attachment 3.

Sign Guidelines mean the sign guidelines for the Project approved by the Port Commission and subject to applicable Laws.

Significant Change as defined in the Lease.

Site as defined in Section 1.03.

Site Permit means the permit for construction of improvements as described in Section 6.17(b).

South Beach Park means the area adjoining the Site to the north, owned by the City through its Port, as trustee under the Tidelands Trust, described in the Redevelopment Plan as South Beach Park, under lease from the Port to the Redevelopment Agency.

South Beach Park Improvements means the improvements adjoining the Project and the South Beach Harbor to be constructed by the Redevelopment Agency as described in the OPA.

State means the State of California.

State Lands means the California State Lands Commission, a State agency.

Target Date as defined in Section 3.02(c).

Team means the San Francisco Giants professional baseball club.

Team Owner means San Francisco Baseball Associates L.P., a California limited partnership, which holds the Franchise issued by the National League and owns the Team.

Team Owner Lenders means any creditor of the Team Owner which holds a security interest in the Franchise.

Tidelands Trust means the public trust for commerce, navigation and fisheries, including, without limitation, the statutory trust imposed by the Burton Act.

Title Company as defined in Section 3.02(a).

Transfer as defined in Section 8.01(a).

Unmatured Event of Default means any Event of Default that, with the giving of notice or the passage of time, or both, would constitute an Event of Default under this Agreement.

Waterfront Plan means the Waterfront Land Use Plan, including the Waterfront Design and Access Element, for the approximately 7-1/2 miles of waterfront property under Port jurisdiction.

Waterfront Promenade means the public access area which adjoins the Ballpark and overlooks the waterfront at the China Basin Channel, within the Waterfront Promenade Parcel. The Waterfront Promenade shall be part of the Port Walk, extending such access area along the northern edge of the China Basin Channel from the Embarcadero promenade (Herb Caen Way) to the Lefty O'Doul Bridge. The Waterfront Promenade shall be designed and constructed by the Developer to integrate with the Port Walk in accordance with the Scope of Development.

Waterfront Promenade Access Parcel as defined Section 2.01(b).

Waterfront Promenade Parcel means the real property comprising the area for the Waterfront Promenade as described in the Legal Description.

IN WITNESS WHEREOF the Parties have caused this Agreement to be executed by their duly appointed representatives as of the date first above written.

DEVELOPER

CHINA BASIN BALLPARK COMPANY LLC,
a Delaware limited liability company

By_____
Peter A. Magowan
Chairman and Chief Executive Officer

PORT

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, operating by and through
the SAN FRANCISCO PORT COMMISSION

By_____
Douglas F. Wong
Executive Director

APPROVED AS TO FORM:

LOUISE H. RENNE, City Attorney

By_____
Julie Van Nostern
Port General Counsel

By_____
Jesse Capin Smith
Deputy City Attorney

ATTACHMENT 1

LEGAL DISCRIPTION OF THE SITE

LEGAL DESCRIPTION
CALTRANS PARCEL

ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

NOTE: ALL ELEVATIONS HEREINAFTER MENTIONED REFER TO CITY AND COUNTY OF SAN FRANCISCO DATUM.

TRACT 1

BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHEASTERLY LINE OF THIRD STREET AND THE SOUTHEASTERLY LINE OF KING STREET; RUNNING THENCE NORTHEASTERLY ALONG SAID LINE OF KING STREET 825 FEET, TO THE SOUTHWESTERLY LINE OF SECOND STREET; THENCE AT A RIGHT ANGLE SOUTHEASTERLY ALONG SAID LINE OF SECOND STREET 275 FEET; THENCE AT A RIGHT ANGLE SOUTHWESTERLY AND PARALLEL WITH KING STREET 825 FEET, TO THE NORTHEASTERLY LINE OF THIRD STREET; THENCE AT A RIGHT ANGLE NORTHWESTERLY AND ALONG SAID LINE OF THIRD STREET 275 FEET TO THE POINT OF BEGINNING.

BEING A PORTION OF 100 VARA BLOCK NO. 361.

EXCEPTING THEREFROM THAT PORTION OF THE HEREIN DESCRIBED LAND AS CONVEYED TO THE CITY AND COUNTY OF SAN FRANCISCO BY THAT CERTAIN DIRECTOR'S DEED DATED MAY 3, 1991 AND RECORDED MAY 10, 1991 IN REEL F373 OFFICIAL RECORDS, IMAGE 0467, AND RE-RECORDED JUNE 26, 1991 IN REEL F405 OFFICIAL RECORDS, IMAGE 0467.

LEGAL DESCRIPTION
PORT PARCELS

ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

NOTE: ALL ELEVATIONS HEREINAFTER MENTIONED REFER TO CITY AND COUNTY OF SAN FRANCISCO DATUM.

TRACT 2A
PORT PARCEL NORTH OF BULKHEAD WALL

COMMENCING AT THE POINT OF INTERSECTION OF THE NORTHEASTERLY LINE OF THIRD STREET WITH THE SOUTHEASTERLY LINE OF KING STREET, AS SAID KING STREET EXISTS AFTER THE WIDENING THEREOF AS SHOWN ON THAT CERTAIN MAP ENTITLED "MAP SHOWING THE WIDENING OF KING STREET BETWEEN SECOND AND THIRD STREET", RECORDED JANUARY 26, 1993, IN REEL F807 OF OFFICIAL RECORDS, IMAGE 771; THENCE ALONG SAID LINE OF THIRD STREET SOUTH 43° 41' 53" EAST 235.50 FEET TO THE SOUTHEASTERLY LINE OF BERRY STREET AND THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTHEASTERLY LINE OF THIRD STREET 43° 41' 53" EAST 193 FEET PLUS OR MINUS TO THE OUTSIDE FACE (WATERWARD FACE) OF AN EXISTING BULKHEAD WALL, AS SAID WALL IS SHOWN ON THAT CERTAIN DRAWING ENTITLED, "BOARD OF STATE HARBOR COMMISSIONERS, STATE DEPARTMENT OF ENGINEERING, PLANS FOR SUBSTRUCTURE - CHINA BASIN TERMINAL, PILING AND FOUNDATION PLAN", DATED OCTOBER 26, 1921, DRAWING 4043-15, SHEET 3 OF 9, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE ALONG SAID FACE OF WALL NORTH 24° 23' 38" WEST 5 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL NORTH 20° 36' 22" EAST 7 FEET PLUS OR MINUS TO ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL (SAID WALL CONSISTING OF NUMEROUS ARCHES) GENERALLY NORTH 65° 36' 22" EAST 795 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL SOUTH 24° 23' 38" EAST 18 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL NORTH 65° 36' 22" EAST 95 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL NORTH 24° 23' 38" WEST 57 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL NORTH 88° 42' 44" EAST 35 PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL NORTH 42° 50' 42" EAST 8 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL 3° 01' 20" WEST 20 FEET PLUS OR MINUS TO THE SOUTHEASTERLY PROLONGATION OF THE NORTHEASTERLY LINE OF SECOND STREET; THENCE ALONG SAID PROLONGATION NORTH 43° 41' 53" WEST 451 FEET PLUS OR MINUS TO THE SOUTHEASTERLY LINE OF BERRY STREET; THENCE ALONG SAID LINE OF BERRY STREET SOUTH 46° 18' 07" WEST 908.454 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL SUBSURFACE MINERAL DEPOSITS, INCLUDING OIL AND GAS DEPOSITS, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS ON SAID LAND FOR EXPLORATION, DRILLING AND EXTRACTION OF SUCH MINERAL, OIL AND GAS DEPOSITS, AS EXCEPTED AND RESERVED BY THE STATE OF CALIFORNIA IN CHAPTERS 1333, STATUTES 1968 AND AMENDMENTS THERETO, AND UPON THE TERMS AND PROVISIONS SET FORTH THEREIN.

LEGAL DESCRIPTION
PORT PARCELS

ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

NOTE: ALL ELEVATIONS HEREINAFTER MENTIONED REFER TO CITY AND COUNTY OF SAN FRANCISCO DATUM.

TRACT 2B
WATERFRONT PROMENADE PARCEL

ALL THAT REAL PROPERTY ABOVE A HORIZONTAL PLANE AT ELEVATION MINUS 2.2 FEET, BOUNDED BY PLANES PROJECTED VERTICALLY ABOVE THE LIMITS OF CERTAIN LAND DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF INTERSECTION OF THE NORTHEASTERLY LINE OF THIRD STREET WITH THE SOUTHEASTERLY LINE OF KING STREET, AS SAID KING STREET EXISTS AFTER THE WIDENING THEREOF AS SHOWN ON THAT CERTAIN MAP ENTITLED "MAP SHOWING THE WIDENING OF KING STREET BETWEEN SECOND AND THIRD STREETS", RECORDED JANUARY 26, 1993, IN REEL F807 OF OFFICIAL RECORDS, IMAGE 771; THENCE ALONG SAID LINE OF THIRD STREET SOUTH 43° 41' 53" EAST 235.50 FEET TO THE SOUTHEASTERLY LINE OF BERRY STREET; THENCE CONTINUING ALONG SAID NORTHEASTERLY LINE OF THIRD STREET 43° 41' 53" EAST 193 FEET PLUS OR MINUS TO A POINT ON THE OUTSIDE FACE (WATERWARD FACE) OF AN EXISTING BULKHEAD WALL, AS SAID WALL IS SHOWN ON THAT CERTAIN DRAWING ENTITLED, "BOARD OF STATE HARBOR COMMISSIONERS, STATE DEPARTMENT OF ENGINEERING, PLANS FOR SUBSTRUCTURE - CHINA BASIN TERMINAL, PILING AND FOUNDATION PLAN", DATED OCTOBER 26, 1921, DRAWING 4043-15, SHEET 3 OF 9, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE ALONG SAID FACE OF WALL NORTH 24° 23' 38" WEST 5 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL NORTH 20° 36' 22" EAST 7 FEET PLUS OR MINUS TO ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL (SAID WALL CONSISTING OF NUMEROUS ARCHES) GENERALLY NORTH 65° 36' 22" EAST 795 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL SOUTH 24° 23' 38" EAST 18 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL NORTH 65° 36' 22" EAST 95 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL NORTH 24° 23' 38" WEST 57 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL NORTH 88° 42' 44" EAST 35 PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL NORTH 42° 50' 42" EAST 8 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL 3° 01' 20" WEST 20 FEET PLUS OR MINUS TO THE SOUTHEASTERLY PROLONGATION OF THE NORTHEASTERLY LINE OF SECOND STREET; THENCE ALONG SAID PROLONGATION SOUTH 43° 41' 53" EAST 73 FEET PLUS OR MINUS TO A POINT DISTANT ALONG SAID PROLONGATION SOUTH 43° 41' 53" EAST 523.369 FEET FROM THE SOUTHEASTERLY LINE OF BERRY STREET; THENCE SOUTH 65° 36' 22" WEST 962.573 FEET TO THE NORTHEASTERLY LINE OF THIRD STREET; THENCE ALONG SAID LINE OF THIRD STREET 43° 41' 53" WEST 12 FEET PLUS OR MINUS TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL SUBSURFACE MINERAL DEPOSITS, INCLUDING OIL AND GAS DEPOSITS, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS ON SAID LAND FOR EXPLORATION, DRILLING AND EXTRACTION OF SUCH MINERAL, OIL AND GAS DEPOSITS, AS EXCEPTED AND RESERVED BY THE STATE OF CALIFORNIA IN CHAPTERS 1333, STATUTES 1968 AND AMENDMENTS THERETO, AND UPON THE TERMS AND PROVISIONS SET FORTH THEREIN.

LEGAL DESCRIPTION
STREET AREAS

ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

NOTE: ALL ELEVATIONS HEREINAFTER MENTIONED REFER TO CITY AND COUNTY OF SAN FRANCISCO DATUM.

TRACT 2C

ALL THAT PORTION OF BERRY STREET, AS IT NOW EXISTS, LYING BETWEEN THE NORTHEAST LINE OF THIRD STREET AND THE SOUTHWEST LINE OF SECOND STREET, AS SAID STREETS NOW EXIST.

EXCEPTING THEREFROM ALL SUBSURFACE MINERAL DEPOSITS, INCLUDING OIL AND GAS DEPOSITS, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS ON SAID LAND FOR EXPLORATIONS, DRILLING AND EXTRACTION OF SUCH MINERAL, OIL AND GAS DEPOSITS, AS EXCEPTED AND RESERVED BY THE STATE OF CALIFORNIA IN CHAPTERS 1333, STATUTES OF 1968 AND AMENDMENTS THERETO, AND UPON THE TERMS AND PROVISIONS SET FORTH THEREIN.

TRACT 2D

ALL THAT PORTION OF SECOND STREET, AS IT NOW EXISTS, LYING BETWEEN THE SOUTHEAST LINE OF KING STREET AND THE NORTHWEST LINE OF BERRY STREET, AS SAID STREETS NOW EXIST.

EXCEPTING THEREFROM ALL SUBSURFACE MINERAL DEPOSITS, INCLUDING OIL AND GAS DEPOSITS, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS ON SAID LAND FOR EXPLORATIONS, DRILLING AND EXTRACTION OF SUCH MINERAL, OIL AND GAS DEPOSITS, AS EXCEPTED AND RESERVED BY THE STATE OF CALIFORNIA IN CHAPTERS 1333, STATUTES OF 1968 AND AMENDMENTS THERETO, AND UPON THE TERMS AND PROVISIONS SET FORTH THEREIN.

ATTACHMENT 1A

PARK ACCESS PARCEL

LEGAL DESCRIPTION
ACCESS PARCELS

ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

NOTE: ALL ELEVATIONS HEREINAFTER MENTIONED REFER TO CITY AND COUNTY OF SAN FRANCISCO DATUM.

PARK ACCESS PARCEL NORTH OF BULKHEAD WALL

COMMENCING AT THE POINT OF INTERSECTION OF THE NORTHEASTERLY LINE OF THIRD STREET WITH THE SOUTHEASTERLY LINE OF KING STREET, AS SAID KING STREET EXISTS AFTER THE WIDENING THEREOF AS SHOWN ON THAT CERTAIN MAP ENTITLED "MAP SHOWING THE WIDENING OF KING STREET BETWEEN SECOND AND THIRD STREETS", RECORDED JANUARY 26, 1993, IN REEL F807 OF OFFICIAL RECORDS, IMAGE 771; THENCE ALONG SAID LINE OF KING STREET NORTH 46° 18' 07" EAST 908.454 FEET TO THE NORTHEASTERLY LINE OF SECOND STREET AND THE TRUE POINT OF BEGINNING; THENCE ALONG SAID LINE OF SECOND STREET 43° 41' 53" WEST 4 FEET TO THE SOUTHEASTERLY LINE OF SAID KING STREET; THENCE ALONG LAS SAID LINE OF SAID KING STREET 46° 18' 07" EAST 50 FEET; THENCE SOUTH 43° 41' 53" EAST 632 FEET PLUS OR MINUS TO THE OUTSIDE FACE (WATERWARD FACE) OF AN EXISTING BULKHEAD WALL; THENCE ALONG SAID FACE OF WALL SOUTH 3° 01' 20" EAST 77 FEET PLUS OR MINUS TO THE SOUTHEASTERLY PROLONGATION OF THE NORTHEASTERLY LINE OF SECOND STREET; THENCE ALONG SAID PROLONGATION 43° 41' 53" WEST 686 FEET PLUS OR MINUS TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL SUBSURFACE MINERAL DEPOSITS, INCLUDING OIL AND GAS DEPOSITS, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS ON SAID LAND FOR EXPLORATION, DRILLING AND EXTRACTION OF SUCH MINERAL, OIL AND GAS DEPOSITS, AS EXCEPTED AND RESERVED BY THE STATE OF CALIFORNIA IN CHAPTERS 1333, STATUTES 1968 AND AMENDMENTS THERETO, AND UPON THE TERMS AND PROVISIONS SET FORTH THEREIN.

PARK ACCESS PARCEL SOUTH OF BULKHEAD WALL

COMMENCING AT THE POINT OF INTERSECTION OF THE NORTHEASTERLY LINE OF THIRD STREET WITH THE SOUTHEASTERLY LINE OF KING STREET, AS SAID KING STREET EXISTS AFTER THE WIDENING THEREOF AS SHOWN ON THAT CERTAIN MAP ENTITLED "MAP SHOWING THE WIDENING OF KING STREET BETWEEN SECOND AND THIRD STREETS", RECORDED JANUARY 26, 1993, IN REEL F807 OF OFFICIAL RECORDS, IMAGE 771; THENCE ALONG SAID LINE OF KING STREET NORTH 46° 18' 07" EAST 908.454 FEET TO THE NORTHEASTERLY LINE OF SECOND STREET; THENCE ALONG SAID LINE OF SECOND STREET 43° 41' 53" WEST 4 FEET TO THE SOUTHEASTERLY LINE OF SAID KING STREET; THENCE ALONG LAST SAID LINE OF SAID KING STREET 46° 18' 07" EAST 50 FEET; THENCE SOUTH 43° 41' 53" EAST 632 FEET PLUS OR MINUS TO THE OUTSIDE FACE (WATERWARD FACE) OF AN EXISTING BULKHEAD WALL AND THE TRUE POINT OF BEGINNING; THENCE ALONG SAID FACE OF WALL SOUTH 3° 01' 20" EAST 77 FEET PLUS OR MINUS TO THE SOUTHEASTERLY PROLONGATION OF THE NORTHEASTERLY LINE OF SECOND STREET; THENCE ALONG SAID PROLONGATION SOUTH 43° 41' 53" EAST 73 FEET PLUS OR MINUS TO A POINT DISTANT ALONG SAID PROLONGATION SOUTH 43° 41' 53" EAST 523.369 FEET FROM THE SOUTHEASTERLY LINE OF BERRY STREET; THENCE NORTH 3° 01' 20" WEST 76.713 FEET; THENCE NORTH 43° 41' 53" WEST 73 FEET PLUS OR MINUS TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL SUBSURFACE MINERAL DEPOSITS, INCLUDING OIL AND GAS DEPOSITS, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS ON SAID LAND FOR

EXPLORATION, DRILLING AND EXTRACTION OF SUCH MINERAL, OIL AND GAS DEPOSITS, AS EXCEPTED AND RESERVED BY THE STATE OF CALIFORNIA IN CHAPTERS 1333, STATUTES 1968 AND AMENDMENTS THERETO, AND UPON THE TERMS AND PROVISIONS SET FORTH THEREIN.

LEGAL DESCRIPTION
ACCESS PARCEL

ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

NOTE: ALL ELEVATIONS HEREINAFTER MENTIONED REFER TO CITY AND COUNTY OF SAN FRANCISCO DATUM.

CHANNEL ACCESS PARCEL

ALL THAT REAL PROPERTY BELOW A HORIZONTAL PLANE AT ELEVATION MINUS 2.2 FEET, BOUNDED BY PLANES PROJECTED VERTICALLY ABOVE THE LIMITS OF CERTAIN LAND DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF INTERSECTION OF THE NORTHEASTERLY LINE OF THIRD STREET WITH THE SOUTHEASTERLY LINE OF KING STREET, AS SAID KING STREET EXISTS AFTER THE WIDENING THEREOF AS SHOWN ON THAT CERTAIN MAP ENTITLED "MAP SHOWING THE WIDENING OF KING STREET BETWEEN SECOND AND THIRD STREETS", RECORDED JANUARY 26, 1993, IN REEL F807 OF OFFICIAL RECORDS, IMAGE 771; THENCE ALONG SAID LINE OF THIRD STREET SOUTH 43° 41' 53" EAST 235.50 FEET TO THE SOUTHEASTERLY LINE OF BERRY STREET; THENCE CONTINUING ALONG SAID NORTHEASTERLY LINE OF THIRD STREET 43° 41' 53" EAST 193 FEET PLUS OR MINUS TO A POINT ON THE OUTSIDE FACE (WATERWARD FACE) OF AN EXISTING BULKHEAD WALL, AS SAID WALL IS SHOWN ON THAT CERTAIN DRAWING ENTITLED, "BOARD OF STATE HARBOR COMMISSIONERS, STATE DEPARTMENT OF ENGINEERING, PLANS FOR SUBSTRUCTURE - CHINA BASIN TERMINAL, PILING AND FOUNDATION PLAN", DATED OCTOBER 26, 1921, DRAWING 4043-15, SHEET 3 OF 9, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE ALONG SAID FACE OF WALL NORTH 24° 23' 38" WEST 5 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL NORTH 20° 36' 22" EAST 7 FEET PLUS OR MINUS TO ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL (SAID WALL CONSISTING OF NUMEROUS ARCHES) GENERALLY NORTH 65° 36' 22" EAST 795 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL SOUTH 24° 23' 38" EAST 18 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL NORTH 65° 36' 22" EAST 95 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL NORTH 24° 23' 38" WEST 57 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL NORTH 88° 42' 44" EAST 35 PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL NORTH 42° 50' 42" EAST 8 FEET PLUS OR MINUS TO AN ANGLE POINT THEREIN; THENCE ALONG SAID FACE OF WALL 3° 01' 20" WEST 20 FEET PLUS OR MINUS TO THE SOUTHEASTERLY PROLONGATION OF THE NORTHEASTERLY LINE OF SECOND STREET; THENCE ALONG SAID PROLONGATION SOUTH 43° 41' 53" EAST 73 FEET PLUS OR MINUS TO A POINT DISTANT ALONG SAID PROLONGATION SOUTH 43° 41' 53" EAST 523.369 FEET FROM THE SOUTHEASTERLY LINE OF BERRY STREET; THENCE SOUTH 65° 36' 22" WEST 962.573 FEET TO THE NORTHEASTERLY LINE OF THIRD STREET; THENCE ALONG SAID LINE OF THIRD STREET 43° 41' 53" WEST 12 FEET PLUS OR MINUS TO THE TRUE POINT OF BEGINNING.

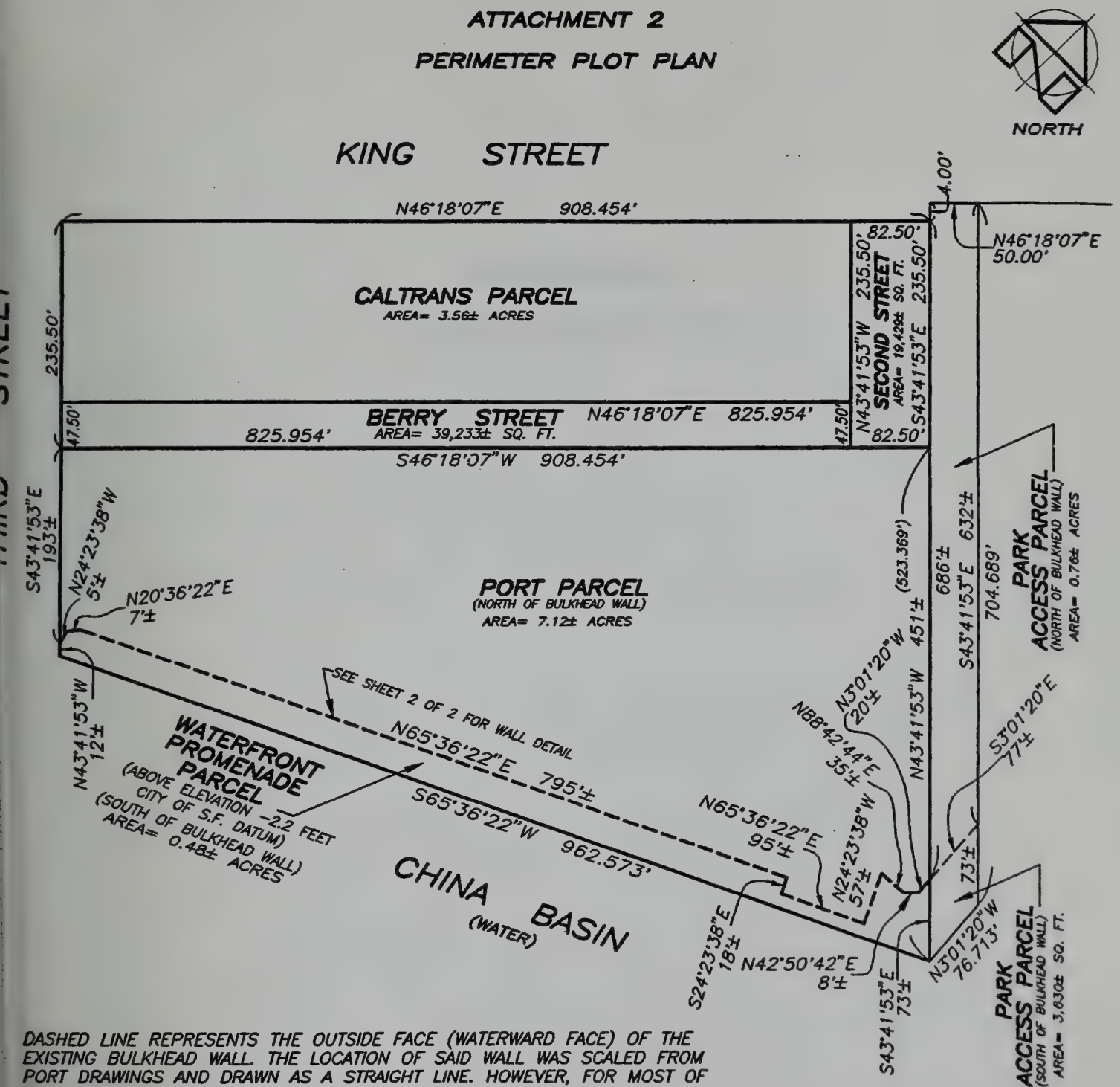
EXCEPTING THEREFROM ALL SUBSURFACE MINERAL DEPOSITS, INCLUDING OIL AND GAS DEPOSITS, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS ON SAID LAND FOR EXPLORATION, DRILLING AND EXTRACTION OF SUCH MINERAL, OIL AND GAS DEPOSITS, AS EXCEPTED AND RESERVED BY THE STATE OF CALIFORNIA IN CHAPTERS 1333, STATUTES 1968 AND AMENDMENTS THERETO, AND UPON THE TERMS AND PROVISIONS SET FORTH THEREIN.

ATTACHMENT 2

PERIMETER PLOT PLAN

ATTACHMENT 2

PERIMETER PLOT PLAN



DASHED LINE REPRESENTS THE OUTSIDE FACE (WATERWARD FACE) OF THE EXISTING BULKHEAD WALL. THE LOCATION OF SAID WALL WAS SCALED FROM PORT DRAWINGS AND DRAWN AS A STRAIGHT LINE. HOWEVER, FOR MOST OF ITS LENGTH, SAID WALL IS ARCHED.
THE PARCEL LINE IS TO FOLLOW THE OUTSIDE FACE OF WALL WHETHER STRAIGHT OR ARCHED. FOR PLAN LOCATION OF SAID WALL SEE "BOARD OF STATE HARBOR COMMISSIONERS, STATE DEPARTMENT OF ENGINEERING, PLANS FOR SUBSTRUCTURE– CHINA BASIN TERMINAL PILING AND FOUNDATION PLAN, DRAWING 4043–15, SHEET 3 OF 9".

SUBJECT: PACIFIC BELL PARK

BY: JP	CHKD.: BR	DATE: 7–9–97	SCALE: NONE	SHEET: 1 OF 1	JOB NO.: S–3422

MARTIN M. RON ASSOCIATES, INC.
LAND SURVEYORS

501 SECOND STREET
SAN FRANCISCO, CA. 94107
(415) 543–4500

ATTACHMENT 3

SCOPE OF DEVELOPMENT

ATTACHMENT NO. 3

SCOPE OF DEVELOPMENT

I. GENERAL DESCRIPTION OF DEVELOPMENT

The Site is approximately 12.5 acres in area and is bordered roughly by King Street, Second Street, China Basin Channel and Third Street. The Developer shall construct on the Site a ballpark of up to approximately 42,000 seats and which may also include complementary commercial, retail and entertainment space. The combined floor area of the ballpark is up to approximately 1,077,000 square feet, including approximately 136,000 square feet in the so-called "Pavilion Building" along Third Street. The Developer will effectively extend the Embarcadero PortWalk for approximately 800 feet along the China Basin Channel to Third Street (extension of the PortWalk hereinafter referred to as the "Waterfront Promenade").

Initially capitalized terms not otherwise defined in this Attachment shall have the meaning given them in the Lease Disposition and Development Agreement (the "Agreement").

II. GENERAL DESIGN OBJECTIVES

The intent of this Scope of Development is to provide a general direction to the development of the ballpark, Pavillion Building and Waterfront Promenade (collectively referred to herein as the "Project") in order to insure the following design objectives:

A. Construction of a ballpark of up to approximately 42,000 seats and associated facilities meeting Major League Baseball standards for size and quality of improvements expected in modern first-class ballparks.

B. Achievement of a satisfying urban waterfront experience making attendance at games an experience special to San Francisco.

C. The Project, including its site design and public access improvements, should be oriented to views of the China Basin Channel, the Bay, the waterfront and the Bay Bridge.

D. Construction of a modern structure in the architectural tradition of old parks which enhances the unique architectural qualities of San Francisco and the neighborhood adjacent to the ballpark site.

E. The ability to use the facility for other assembly, and entertainment and civic events, including the ability to convert the ballpark's infield area during the off-season to a small enclosed amphitheater with a capacity of 5,000 to 15,000 seats for music, concerts and entertainment.

F. Provide Waterfront Promenade public access improvements to connect South Beach Harbor in the proposed South Beach Park with waterside access connections from the adjoining South Beach Park through the Site to Third Street, adjacent to Lefty O'Doul Bridge.

G. Consider the ballpark's appearance from South Beach Harbor and associated park areas; include screening or architectural integration of mechanical elements in the design.

H. Cooperate with the design and construction of the adjoining South Beach Harbor and Park.

III. DEVELOPMENT STANDARDS

The development of the Project shall comply with all applicable legal requirements including, but not limited to, the following land use and development standards ("Development Standards"), as applicable:

A. Site

1. Development Density. The permitted density shall be up to approximately 1,077,000 square feet, including approximately 136,000 square feet in the Pavilion Building.

2. Architectural

a. General. The Improvements shall be of high architectural quality and appearance, complementary to the surrounding community, including the Third Street Bridge, a City landmark.

b. Height and Bulk.

(1) The height of the Improvements shall be no more than 150 feet, exclusive of architectural features, light standards or other non-occupiable elements.

(2) The verticality of the improvements shall be masked by an appropriate setback of the upper seating bowl.

c. Parking. Up to approximately 80 parking spaces are permitted on Site.

d. Roof Tops. Efforts are to be made to create and maintain an attractive appearance of the roof top as visible from other higher buildings in the area.

e. Utilities. All utility services on the Site, with the exception of lighting fixtures or standards, shall be underground or concealed within buildings. Rooftop mechanical equipment, antennae and satellite dishes shall be adequately screened.

f. Views. Include design treatments which convey a waterfront identity, as viewed at the terminus of Second Street.

3. Landscaping

The Site shall be provided with appropriate landscaping of such design and material selection as to ensure a permanent landscaped environment which enhances the Site.

B. Public Access Areas.

Public access areas will include the Waterfront Promenade, an upper level terrace in centerfield, and plazas at grade at three of the four corners of the ballpark (i.e., one adjacent to the Third Street Bridge, one at the corner of Third and King Streets, and one adjacent to the waterfront beyond centerfield).

1. General Design Objectives.

a. Waterfront Promenade. The character of the Waterfront Promenade shall be similar to the existing Embarcadero Promenade (Herb Caen Way) with adequate width to accommodate ballpark visitors, and should be consistent with the character and uses of the land and waterfront surrounding the Waterfront Promenade. Activate the Waterfront Promenade by including "knotholes" that provide a view onto the field from the Waterfront Promenade.

b. Centerfield Terrace. From behind centerfield, provide unique overviews of both the San Francisco Bay and the interior of the Ballpark.

c. Plazas. Design the plazas to facilitate public use, including on non-game days.

2. Landscape and Related Technical Standards.

a. All paved areas shall be installed and maintained to the standards commensurate with a first-class, publicly accessible urban walkway.

b. Lighting and Lighting Fixtures. Utilize lighting to enhance access. Lighting shall be sufficient for project security, safety, orientation and mood, without creating a glare nuisance for surrounding uses.

c. Furniture:

(1) Amenities and utilities (e.g., seating, drinking fountains, trash receptacles, telephone booths) shall be coordinated in design and placement and shall be placed so as not to impede movement.

(2) All elements of the public environment shall be highly useable, durable and attractive, both individually and as an ensemble.

d. Access:

(1) The Waterfront Promenade shall be safely accessible to all persons, and in full compliance with all government regulations and standards relating to such access.

(2) Accessibility shall be an integral and attractive part of the overall design.

e. Safety and Security Maintain Clear Sight Lines:

Maintain clear sightlines. Spaces shall be designed to allow the greatest possible 'self-policing' by users.

C. General Construction Requirements

a. General. The construction of the Project shall be performed in accordance with applicable Mitigation Measures and Improvement Measures and in a workmanlike, safe and orderly manner so as to minimize, to the extent reasonably feasible, disturbance to the adjoining property, as well as to the neighborhood as a whole.

b. Dust and Disturbance. During construction of the Project, reasonable precautions shall be taken to minimize dust and disturbance to adjacent properties in accordance with the Mitigation Measures.

c. Construction Barricade. During construction of the Project, a construction barricade shall be erected and maintained at the perimeter of the Site.

d. Access. In cooperation with the Redevelopment Agency and the Port, provide access to the ILWU, South Beach Harbor and South Beach Park during construction.

IV. DEVELOPER RESPONSIBILITIES

In addition to the other Developer responsibilities set forth elsewhere in the Agreement, the Developer shall be responsible, at no cost to the Port, for the following:

1. All site preparation activities on the Site.

2. The construction, resurfacing, or rebuilding and repairing, if required by the City, of sidewalks, curbs, gutters and street trees on the King and Third Street frontages abutting the Site.

3. All utility services required for the development either within the Site or the adjacent public rights-of-way including, but not limited to, the following:

    a. Water
    b. Power
    c. Sewer
    d. Storm Drain
    e. Natural Gas
    f. Telephone

Items 1, 2 and 3 of this Section IV shall be performed in accordance with City requirements.

V. DEVELOPER SUBMITTALS

The Construction Documents to be submitted by Developer to the Port and the approval process are specified in the text of the Agreement. The submittals shall be made at the times specified in the Schedule of Performance and shall include, but not be limited to, the following:

A. Schematic Drawings shall generally include, but not be limited to:

1. Perspective drawings sufficient to illustrate overall Project.

2. A Site Plan at appropriate scale showing relationships of buildings with their respective uses designating open spaces, Waterfront Promenade, landscaped areas, walkways, loading areas, streets, water elements, and adjacent uses. Adjacent existing and proposed street and structures should also be shown.

3. Building sections showing height relationships of those areas noted above.

4. Building plans, elevations and section sufficient to describe the development proposal, the general architectural character, and materials proposed at appropriate scale to fully explain the proposal.

B. Preliminary Construction Documents shall generally include, but not be limited to:

1. Site plan(s) at appropriate scale showing the building, streets, walks, and other open spaces. All land uses shall be designated. All site development details and bounding streets, points of vehicular and pedestrian access shall be shown.

2. All building plans and elevations at appropriate scale.

3. Building sections showing all typical cross sections at appropriate scale.

4. Floor plans.

5. Grading plans.

6. Landscape plans showing all details including walls, fences, planting materials, paving, exterior lighting and improvements in the City's rights-of-way.

7. Outline specifications for materials, finishes and methods of construction.

8. Material and color samples.

9. Roof plans showing all mechanical and other equipment.

These Preliminary Construction Documents shall be in sufficient detail and completeness to show that the Improvements and the construction thereof shall comply with the Project Requirements (as defined in the Agreement).

C. Final Construction Documents shall generally include all plans and specifications required under applicable Codes to be submitted with an application for a building permit.

VI. SEVERABILITY

In such event that any term, covenant, condition or provision of this Scope of Development, or application thereof to any person or circumstance, shall be held invalid, void or unenforceable because of the applicable provisions of the Redevelopment Plan and/or the Design for Development or for any other reason, the remaining terms, covenants, conditions or provisions of this Scope of Development and the application thereof to other persons or circumstances shall be unaffected thereby.

ATTACHMENT 4

SCHEDULE OF PERFORMANCE

ATTACHMENT NO. 4

SCHEDULE OF PERFORMANCE

INTRODUCTION

Several principles apply to an effective understanding of this Schedule of Performance: (i) all terms used herein have the same meanings as provided in the Lease Disposition and Development Agreement between the City and County of San Francisco through the San Francisco Port Commission, and China Basin Ballpark Company LLC dated as of _____, 1997 (the "Agreement"); (ii) parenthetical numbers are references to sections of the Agreement, as the dates described herein are not exhaustive of all dates described in the Agreement; (iii) all Required Completion Dates provided for in this Schedule of Performance may be extended by applicable Force Majeure provisions or as otherwise provided for in the Agreement; (iv) the Target Completion Dates provided herein are for informational purposes only and are not binding in any way on the Port or the Developer, except as otherwise specifically provided in the Agreement; and (v) in the event of an inconsistency between this Schedule of Performance and the Agreement, the Agreement shall prevail.

Event	Target Completion Date	Required Completion Date
Port's Acquisition of Caltrans Parcel. The Port shall acquire fee title to the Caltrans Parcel. (Section 202).	October 20, 1997	After satisfaction of conditions precedent set forth in the Caltrans Parcel Purchase Agreement and either (i) immediately before the Delivery of the Site to the Developer (after satisfaction of the conditions precedent thereto) or (ii) in accordance with Section 2.02(d).

Event	Target Completion Date	Required Completion Date
Termination of Tenancies on Tract 2A. The Port shall use its best efforts to terminate all of the tenancies and occupancies of Tract 2A. (Section 2.03(a), (c))	August 1, 1997	Before Close of Escrow.
Termination of Tenancies on Caltrans Parcel. The Port shall use its best efforts to terminate all of the tenancies and occupancies of the Caltrans Parcel. (Section 2.03(b), (c))	September 26, 1997	Before Close of Escrow.
Street Vacations. The Port will diligently take all actions reasonably necessary to complete the vacation of Tracts 2C and 2D as required by Section 2.04.	August 28, 1997	Before Close of Escrow.
Submission - Evidence of Adequate Financing. Developer shall submit to the Port for its review and approval evidence of financing as required by Section 3.03(a)(iii).	September 5, 1997	After Port has received Preliminary Construction Documents and at least 45 days prior to Close of Escrow.
Approval - Evidence of Adequate Financing. Port shall notify Developer in writing of its approval or disapproval of the evidence of financing. (Section 3.03(a)(iii)(D))	September 22, 1997	Within 15 days of Developer's submission of evidence of adequate financing.

Event	Target Completion Date	Required Completion Date
Submission - Application for Building Permit. Developer must submit to the Port a complete application for either a Site Permit (if Developer has elected to use the Site Permit method) or a full building permit and prosecute such application diligently to issuance. (Section 6.17)	July 21, 1997	Within a time adequate to obtain the permit before Close of Escrow, taking into account normal processing time by the Port.[1]
Submission - Schematic Drawings. Developer shall submit the Schematic Drawings to the Port for review and approval as provided in Section 6.07 (Section 6.06)	July 15, 1997	No later than 90 days prior to Close of Escrow
Approval - Schematic Drawings. Port must approve, disapprove or approve conditionally the Schematic Drawings, in writing. (Section 6.12(b))	August 15, 1997	Within 30 days after submittal
Submission - Preliminary Construction Documents. Developer shall submit the Preliminary Construction Documents to the Port for review and approval as provided in Section 6.07. (Section 6.06)	July 25, 1997	No later than 60 days prior to Close of Escrow.

[1] Target Date for permit issuance is October 6, 1997.

Event	Target Completion Date	Required Completion Date
Approval - Preliminary Construction Documents. Port must approve, disapprove or approve conditionally the Preliminary Construction Documents, in writing. (Section 6.12(b)(i))	August 25, 1997	Within 30 days after submittal.
Submission - Final Construction Documents. Developer shall submit the Final Construction Documents to the Port for review and approval as provided in Section 6.07. (Section 6.06)	Per Site Permit Schedule.	No later than 60 days prior to Close of Escrow, unless Developer has elected the Site Permit process. If Developer has elected to use the Site Permit process, then in accordance with the approved schedule.
Approval - Final Construction Documents. Port must approve, disapprove or approve conditionally the Final Construction Documents, in writing. (Section 6.12(b))	Per Site Permit Schedule.	Within 30 days of submittal or in accordance with approved schedule.
Resubmittal - Construction Documents. If Port disapproves or conditionally approves the Construction Documents, in whole or in part, Developer must resubmit the Construction Documents to the Port for review and approval as required by Section 6.12(c).		As expeditiously as possible and Developer may continue making resubmissions until the approval of such submissions or the later of (i) the time specified in any conditional approval; or (ii) the last date for Delivery, as either may be extended by the Port.

Event	Target Completion Date	Required Completion Date
Submission - Notice of Proposed Date for Close of Escrow. Developer shall submit to Port written notice of the date it proposes for the Close of Escrow if other than the last day for the Close of Escrow specified herein. (Section 3.02(b))	September 5, 1997	At least 45 days prior to the date Developer proposes as the date for the Close of Escrow.
Opening of Escrow. Developer shall open Escrow as required by Section 3.02(a).	September 19, 1997	Approximately 30 days prior to Close of Escrow.
Submission - Notice Ready to Accept. Developer shall submit to Port written notice that it is ready to accept Delivery. (Section 7.02(b))	September 29, 1997	Not later than 14 days before the Close of Escrow.
Prepare and Execute Joint Escrow Instructions - Developer. Developer must prepare and execute joint escrow instructions. (Section 3.02(b))	October 6, 1997	Not later than 14 days before the Close of Escrow for preparation and 7 days before Close of Escrow for execution.
Execute Joint Escrow Instructions - Port. If the joint escrow instructions are acceptable to Port, it shall execute and transmit the instructions to the Title Company. (Section 3.02(b))	October 13, 1997	Within 7 days after their receipt.
Deposit - Costs of Escrow. Developer shall deposit all fees, charges, costs and other amounts necessary for Delivery as required by Section 3.02(d).	October 19, 1997	Promptly after the Title Company notifies Developer of the amounts due and in any event prior to the Close of Escrow.

Event	Target Completion Date	Required Completion Date
Close of Escrow. Port shall deliver the Site to Developer and Developer shall accept the Delivery of the Site under the Lease in accordance with Section 3.05.	October 20, 1997	December 31, 1998
Commencement of Construction of Improvements. Developer shall use its best efforts to commence construction of the Improvements on the Site, including site preparation and demolition. (Sections 6.01(a), 6.14)	October 20, 1997	30 days after Close of Escrow.
Completion of Construction of Improvements. Developer shall use its best efforts to complete construction of the Improvements on the Site. (Sections 6.01(a) and 6.14)	March 15, 2000	36 months from Delivery, but no later than March 31, 2002 (the outside date for completion under the Baseball Sublease).
Submission - Request for Certificate of Completion. Developer may request in writing from the Port a Certificate of Completion. (Section 7.01(a)(ii)	March 15, 2000	After construction of the Improvements on the Site has been Completed by Developer in accordance with all provisions of the Agreement.
Approval - Certificate of Completion. The Port shall act on Developer's request for a Certificate of Completion. (Section 7.01(a)(ii))	April 1, 2000	Within 30 days of receipt of the request.

Event	Target Completion Date	Required Completion Date
Submission - As Built Documents. Developer must furnish the Port as-built plans, specifications and surveys with respect to the Site. (Section 6.10)	May 31, 2000	Within 60 days after Completion of the Improvements.

ATTACHMENT 5

REFER TO RESOLUTION 97-56

ATTACHMENT 6

FORM OF NON-RELOCATION AGREEMENT

DRAFT OF JULY 10, 1997

RECORDING REQUESTED
AND WHEN RECORDED RETURN TO:

_____
_____
_____
Attn:_____

(Space above this line reserved for Recorder's use)

CITY AND COUNTY OF SAN FRANCISCO
WILLIE LEWIS BROWN, JR., MAYOR

NON-RELOCATION AGREEMENT

between the

SAN FRANCISCO BASEBALL ASSOCIATES L.P.,
a California limited partnership

and the

CITY AND COUNTY OF SAN FRANCISCO

Pacific Bell Park,
San Francisco, California

Dated as of _____, 1997

DRAFT OF JULY 10, 1997

NON-RELOCATION AGREEMENT

THIS NON-RELOCATION AGREEMENT (this "Agreement") dated for reference purposes as of _____, 1997 is made by SAN FRANCISCO BASEBALL ASSOCIATES L.P., a California limited partnership (the "Team Owner"), for the benefit of the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (the "City").

THIS AGREEMENT is made with reference to the following facts and circumstances:

A. The Team Owner holds the professional baseball franchise for the City issued by the National League (the "Franchise") and is the owner of the San Francisco Giants professional baseball team.

B. The Team Owner has organized China Basin Ballpark Company LLC, a Delaware limited liability company ("CBBC"), for the purpose of developing and operating an open air waterfront ballpark and complementary improvements, known as "Pacific Bell Park" (the "Ballpark") on real property bounded generally by the easterly line of Third Street, the southerly line of King Street, the easterly line of Second Street and China Basin Channel in San Francisco, California, as more particularly described in Exhibit A attached hereto (the "Site").

C. In order to effectuate the policies and purposes of Proposition B, approved by the voters of the City on March 26, 1996, the City, through the San Francisco Port Commission (the "Port"), is entering into a Lease Disposition and Development Agreement ("DDA") with CBBC. Under the terms and conditions of the DDA, the City, through its Port, will enter into a Lease in the form attached to the DDA (the "Lease") with CBBC, pursuant to which CBBC will develop and operate the Ballpark. The complete execution and delivery of this Agreement is a condition to the Port's obligation to enter into the Lease, deliver the Site to CBBC, and undertake certain actions to deliver the Site to CBBC under the Lease free of occupancies.

D. In accordance with the Lease, CBBC will enter into a sublease (the "Baseball Sublease") with the Team Owner for the exhibition of Major League Baseball games at the Ballpark. The minimum term of the Baseball Sublease shall begin on the date the first Baseball Home Game is played at the new Ballpark and end on December 31, 2022. The minimum term of the Baseball Sublease shall be coextensive with the term of this Agreement.

E. CBBC desires that the Redevelopment Agency of the City and County of San Francisco (the "Agency") issue tax allocation bonds to fund certain infrastructure improvements to support development of the Ballpark (the "Tax Allocation Bonds") and enter into an Owner Participation Agreement ("OPA") to that effect. The Tax Allocation Bonds are to be repaid from property tax increment generated from the Ballpark project at the Site.

F. The City and the Team Owner intend that the San Francisco Giants play their Baseball Home Games in the new Ballpark following completion of construction by CBBC subject and pursuant to the terms and provisions of the Baseball Sublease.

G. The presence and conduct of Major League Baseball in the City provides recreational opportunities for the residents of the City in the form of spectator sports, stimulates direct and indirect economic activity, enhances the quality of life for San Franciscans and provides other substantial intangible benefits to the City and its residents.

H. As an essential inducement for the City, through its Port, to enter into the DDA and the Lease and to deliver possession of the Site to CBBC thereunder and to approve the transactions contemplated by the DDA and the Lease, and to induce the City to approve an allocation of increment needed for the Agency to issue the Tax Allocation Bonds to finance infrastructure for the Ballpark, the Team Owner has agreed, on the terms and conditions more particularly set forth below, to enter into this Agreement to assure the City that, subject to the terms and provisions of the Baseball Sublease, substantially all of the Baseball Home Games of the Giants will be played at the Ballpark during the Non-Relocation Term (as defined below).

I. Except as otherwise defined herein, capitalized terms used in this Agreement shall have the meanings given them in the Lease.

ACCORDINGLY, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Team Owner hereby agrees as follows for the benefit of the City:

1. Covenant Not to Relocate.

1.1 Agreements. The Team Owner acknowledges and agrees that the City would not be willing to enter into the DDA or Lease with CBBC, approve the transactions contemplated by the DDA or the Lease, or approve the allocation of tax increment needed for the issuance of the Tax Allocation Bonds by the Agency under the OPA, in the absence of this Agreement. Accordingly, in order to induce the City to enter into the transactions with CBBC contemplated by DDA and the Lease and approve an allocation of tax increment, the Team Owner hereby irrevocably covenants and agrees with the City as follows, subject to the Baseball Sublease, the provisions of Section 1.2 and the provisions of Section 6.2:

(a) No Relocation for Non-Relocation Term. For the Non-Relocation Term as defined below, the Team Owner shall cause the Team to play substantially all of its Baseball Home Games and any home Post Season Games at the Ballpark, and nowhere else at any time, except solely as expressly provided in Section 1.2 below. The term of such covenant (the "Non-Relocation Term") shall begin on the date on which the Team plays its first Baseball Home Game in the Ballpark and, except as otherwise provided in this Agreement, shall continue in full force and effect through December 31, 2022; and

(b) No Contract to Relocate. The Team Owner shall not enter into any contract or other agreement of any kind to transfer the Franchise outside of the City of San Francisco to a location other than the Ballpark, or which would result in such a transfer, where such transfer would occur any time during the Non-Relocation Term; and

(c) No Application to Relocate. The Team Owner shall not submit any application to the National League for approval to transfer the Franchise to a location other than the Ballpark, if such transfer would occur at any time during the Non-Relocation Term.

1.2 Limited Exceptions.

The Team Owner's covenants set forth in Section 1.1 shall be subject solely to the following exceptions:

(a) Failure to Complete Construction of the Ballpark. Subject to the provisions of Section 6.2, the Team Owner shall have the right, upon not less than ninety (90) days advance written notice to the City, to terminate this Agreement if the Ballpark is not substantially complete by final date therefor required under the Baseball Sublease and the Team Owner properly terminates the Baseball Sublease in strict accordance with the provisions thereof.

(b) Material Breach by Landlord Under Baseball Sublease. Subject to the provisions of Section 6.2, the Team Owner shall have the right to terminate this Agreement by written notice to the City if the landlord under the Baseball Sublease is in material breach of its obligations thereunder, the Team Owner has sent notice of such breach to such landlord and, pursuant to the Nondisturbance and Attornment Agreement between the City and the Team Owner referred to in Section 6.2(b), to the City, and neither such landlord, the City nor any other party entitled to do so has cured such breach within the applicable cure period, provided that the Team Owner, concurrently with its termination of this Agreement, has also terminated the Baseball Sublease under and pursuant to the terms of the Baseball Sublease and that such breach and termination is not the result of any agreement or other understanding between the Team Owner and CBBC for the purpose of avoiding the Team Owner's obligations under this Agreement.

(c) Major Damage and Destruction of the Ballpark. Subject to the provisions of Section 6.2, the Team Owner shall have the right by written notice to the City, to terminate this Agreement if the Ballpark is damaged or destroyed during the Non-Relocation Term and is not rebuilt in accordance with the provisions of the Baseball Sublease, including any cure periods granted in connection therewith. In the event the Ballpark becomes untenantable during the Non-Relocation Term due to damage or destruction and the landlord under the Baseball Sublease has an obligation to repair or rebuild under the Lease and confirms its intention to do so, then the Team Owner may relocate during any Seasons in which the Ballpark remains untenantable.

(d) Condemnation. Subject to the provisions of Section 6.2, the Team Owner shall have the right by written notice to the City, to terminate this Agreement if there is a Condemnation of the Ballpark during the Non-Relocation Term, such Condemnation prevents the playing of Major League Baseball and the Premises are not restored in accordance with the provisions of the Baseball Sublease, including any cure periods granted in connection therewith. In the event the Ballpark becomes untenantable during the Non-Relocation Term due to a Condemnation, including, without limitation, a temporary taking, and the landlord under the Baseball Sublease has an obligation to restore under the Lease and confirms its intention to do so, then the Team Owner may relocate during any Seasons in which the Ballpark remains untenantable.

(e) Exhibition Games. The Team Owner shall have the right to play no more than two (2) exhibition Baseball Home Games each year (prior to the beginning of the regular Season) at another location. In addition, the Team Owner shall have the right to play no more than three (3) Baseball Home Games each Season in a foreign country if such games are recognized by the National League.

(f) Intercreditor Agreement; Rights of Lender to Team Owner. The provisions of Section 1.1 shall be subject to the terms and conditions of the Intercreditor Agreement between and among the City, the Team Owner, the lenders to the Team Owner and the lenders to CBBC permitted under the DDA and the Lease in the form attached hereto as Exhibit B (the "Intercreditor Agreement"), regarding any sale of the Franchise as a result of a default by the Team Owner under the loan secured by the Franchise. If there is any inconsistency between the provisions of this Agreement and the provisions of the Intercreditor Agreement, the terms of the Intercreditor Agreement shall prevail.

1.3 Pledge of Franchise. Notwithstanding anything to the contrary contained in this Agreement, it is understood and agreed that the Team Owner shall have the right to grant a security interest in the Franchise or any of the Team Owner's other assets to obtain financing from one or more lenders; provided, however, that each such lender agrees expressly to be bound by the provisions of the Intercreditor Agreement.

1.4 Compliance with Baseball Sublease. The Team Owner shall comply with its obligation to play Baseball Home Games at the Ballpark in accordance with the Baseball Sublease.

1.5 Maintenance of Franchise. The Team Owner and any of its successors in interest shall maintain the Franchise in effect with the National League.

2. Independent Obligation.

The Team Owner agrees that it is directly and primarily obligated to the City for performance of the covenants contained herein and that its obligations hereunder are independent of the respective obligations of the City or CBBC under the Lease or the obligations of CBBC under the Baseball Sublease, except as otherwise expressly provided in this Agreement.

3. Consents and Waivers.

3.1 Consents. The Team Owner hereby authorizes the City, without notice or demand and without affecting the Team Owner's obligations hereunder, from time to time to waive, amend, terminate or modify any of the terms or provisions of the DDA, the Lease or any agreement or document executed in connection therewith, provided that such waiver, amendment, termination or modification does not materially and adversely affect the Team Owner (each such waiver, amendment, termination or modification shall be referred to herein as an "Acceptable Change"). The Team Owner agrees that the City may effect an Acceptable Change in such manner, upon such terms, and at such times as the City in its sole discretion deems advisable, without, in any way, impairing, affecting, reducing or releasing the Team

Owner from its obligations hereunder. The Team Owner hereby consents to each and every Acceptable Change. Although not necessary for such consent to be effective for purposes hereof, the Team Owner shall, upon request, confirm its consent to an Acceptable Change in writing, in form and substance reasonably satisfactory to City. The Team Owner agrees that it shall not unreasonably withhold, condition or delay its approval of any waiver, amendment, termination or modification of the Lease which is not an Acceptable Change, and shall respond to a request for approval in such instance promptly, but in any event within ten (10) business days. Failure to respond within such period shall be deemed to be approval.

3.2 Waivers. The Team Owner, on behalf of itself and its successors and assigns, hereby unconditionally and fully and absolutely waives each of the following:

(a) Defenses. In any action by the City for specific performance or injunctive relief under this Agreement, the Team Owner hereby waives any right to assert against the City any defense or counterclaim which the Team Owner may now or at any time hereafter may have under applicable law that specific performance or injunctive relief is not an appropriate remedy, including, but not limited to, any and all defenses and counterclaims it may have under California Code of Civil Procedure Section 526, or any similar law, or based on any assertion that there is any need for continuous supervision by the court or lack of mutuality.

(b) Remedies Against CBBC. As a condition to performance by the Team Owner under this Agreement, the City shall not be required to, and the Team Owner hereby waives any and all rights to require the City to, prosecute or seek to enforce any remedies against CBBC or any other party liable to the City under the Lease, or join CBBC or any such other party in any such action by the City. The Team Owner acknowledges and agrees that no remedies provided to the City under the Lease against CBBC are adequate remedies at law to address the substantial injuries caused by a breach or threatened breach of the covenants contained in Section 1.1 hereof.

(c) Contractual Interference. The Team Owner hereby waives any claim or defense it may have at any time based upon the City's enforcement or attempted enforcement of this Agreement or any provision hereof or any other agreement related hereto, including, but not limited to, any claims of tortious interference with contractual relationships or any and all similar claims.

4. Term. The term of this Agreement shall begin on the date the first Baseball Home Game is played at the Ballpark and shall expire at the end of the Non-Relocation Term as defined in Section 1.1(a) hereof, subject to earlier termination as provided in this Agreement.

5. **REMEDIES OF CITY; AVAILABILITY OF SPECIFIC PERFORMANCE.**

THE TEAM OWNER ACKNOWLEDGES AND AGREES THAT ITS BREACH, OR ITS THREATENED BREACH, OF ANY OF THE COVENANTS CONTAINED IN SECTION 1.1 HEREOF WILL CAUSE THE CITY GREAT AND IRREPARABLE INJURY AND THAT NO ADEQUATE LEGAL REMEDY IS OR WILL BE AVAILABLE TO COMPENSATE THE CITY FOR SUCH INJURY. THUS, THE TEAM OWNER AGREES THAT IN THE EVENT OF ANY SUCH BREACH OR

THREATENED BREACH BY THE TEAM OWNER, THE CITY SHALL BE ENTITLED TO INJUNCTIVE AND OTHER EQUITABLE RELIEF (INCLUDING, BUT NOT LIMITED TO, PROHIBITORY INJUNCTIVE RELIEF) TO PREVENT A BREACH, OR THREATENED BREACH, BY THE TEAM OWNER OF THE COVENANTS CONTAINED HEREIN. THE TEAM OWNER HEREBY CONSENTS TO THE ENTRY OF A TEMPORARY RESTRAINING ORDER, TOGETHER WITH PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF, FROM ANY COURT OF COMPETENT JURISDICTION TO ENJOIN ANY VIOLATION OR THREATENED VIOLATION OF SECTION 1.1. THE TEAM OWNER HEREBY WAIVES ANY REQUIREMENT THAT THE CITY POST A BOND OR ANY OTHER SECURITY IN CONNECTION WITH SUCH INJUNCTIVE RELIEF. THE TEAM OWNER AGREES THAT SUCH INJUNCTIVE RELIEF BY CITY SHALL BE IN ADDITION TO ANY AND ALL OTHER LEGAL OR EQUITABLE REMEDIES THAT MAY BE AVAILABLE TO CITY UNDER THE LEASE OR ANY OTHER AGREEMENT ENTERED INTO BY OR BETWEEN CITY AND CBBC OR THE TEAM OWNER IN CONNECTION WITH THE LEASE OR THAT MAY OTHERWISE BE AVAILABLE TO CITY.

Initials of Team Owner: _____

6. Attornment and Nondisturbance Agreement.

6.1 Approval of Baseball Sublease. The form and business terms of the Baseball Sublease are subject to the prior written approval of the City in its capacity as Landlord under the Lease, as further provided in the Lease. Except as otherwise permitted in the Lease, the Baseball Sublease may not be amended, modified or terminated without the City's prior written approval in its capacity as Landlord under the Lease, which approval shall not be unreasonably withheld, conditioned or delayed. Without limiting any of the City's approval rights as provided above, the Baseball Sublease shall provide as follows: (a) the Baseball Sublease shall be expressly subject and subordinate to the Lease; (b) the minimum term of the Baseball Sublease shall be at least as long as the Non-Relocation Term hereunder; (c) subject to the terms of the Intercreditor Agreement and Section 10.1 hereof, the Team Owner shall have no right to assign, sublet or transfer its interest in the Baseball Sublease except to a successor owner of the Franchise; (d) the damage and destruction provisions of the Baseball Sublease must be consistent with Section 12 of the Lease; and (e) the obligations of CBBC to deliver possession of the completed Ballpark under the Baseball Sublease must be consistent with the obligations of CBBC to construct the Ballpark under the DDA, including the Schedule of Performance annexed thereto.

6.2 Attornment and Nondisturbance. In the event the City succeeds to the interest of landlord under the Baseball Sublease by reason of any termination of the Lease by the City due to CBBC's default thereunder (following any notice and cure provisions provided therein, including mortgagee protection provisions), or by any other manner or for any other reason, it is agreed that:

(a) Attornment. The Team Owner shall be bound to the City, and the City shall be bound to the Team Owner, under all of the terms, covenants, and conditions of the Baseball Sublease for the remaining balance of the term thereof, with the same force and effect as if the City were the original landlord under the Baseball Sublease, and the Team Owner shall

attorn to the City, such attornment to be effective and self-operative without the execution of any further instruments on the part of any of the parties to this Agreement, immediately upon the City succeeding to the interest of landlord under the Baseball Sublease.

(b) Non-Disturbance. So long as the Team Owner is not in default under the Baseball Sublease, which default shall not have been cured or is not in the process of being cured within the applicable grace period provided for in the Baseball Sublease, the City shall: (i) recognize the Baseball Sublease to be in full force and effect; (ii) not disturb or terminate the Team Owner's subleasehold estate under the Baseball Sublease by reason of any default by CBBC under the Lease; and (iii) permit the Team Owner to remain in quiet and peaceable possession of the leased premises throughout the balance of the term of the Baseball Sublease (including, without limitation, any renewal terms thereunder) in accordance with the provisions of the Baseball Sublease; provided, however:

(i) the City shall not be liable for or obligated to cure any monetary default under the Baseball Sublease occurring prior to the time that the City succeeds to CBBC's interest under the Baseball Sublease, nor be subject to any offsets, defenses or claims that the Team Owner may be able to assert against CBBC;

(ii) subject to subsection (c) below, the City shall not be liable for or obligated to cure any non-monetary default under the Baseball Sublease occurring prior to the time the City succeeds to CBBC's interest under the Baseball Sublease; and

(iii) the City shall not be bound by any modification or amendment of the Baseball Sublease made without the City's written consent, except as otherwise permitted in the Lease.

(c) Cure of Certain Defaults. The Team Owner's attornment obligation, and its covenants contained in Section 1.1 hereof, shall be subject to the City's cure of any material non-monetary default under the Baseball Sublease (if CBBC's permitted mortgagees have failed to cure such default) to the extent such material non-monetary default must be cured in order to provide a facility that complies with the standards, provisions and requirements of the Baseball Sublease and meets the minimum requirements for the exhibition of Major League Baseball games in accordance with applicable laws and Baseball Rules and Regulations, consistently applied to all facilities.

(d) Separate Non-Disturbance and Attornment Agreement. The parties shall enter into the Non-Disturbance and Attornment Agreement attached hereto as Exhibit C incorporating the provisions of this Section 6.2, and such agreement shall be recorded in the Official Records of the City upon the Close of Escrow (as defined in the DDA).

6.3 Notice and Opportunity to Cure Under Baseball Sublease.

Subject to the rights of the CBBC's mortgagees with encumbrances on CBBC's interests under the Lease and Sublease (as permitted by the terms and conditions of the Lease), the City shall be entitled to notice and an opportunity to cure any default by CBBC as landlord under the Baseball Sublease as follows.

(a) Notices of Default. The Team Owner shall give to the City a copy of any and all notices of default or of the occurrence of an event of default from time to time given to CBBC, as landlord under the Baseball Sublease, by the Team Owner at the same time as and whenever any such notice shall thereafter be given by the Team Owner to CBBC. Such notice shall be addressed to the City in the manner for delivery of notices provided herein.

(b) City's Cure Rights. In the case of any notice of default given by the Team Owner to CBBC and the City in accordance with subsection (a), the City shall have the same rights to cure CBBC's default as are given to a Mortgagee under the Lease, effective after exhaustion of such Mortgagee cure rights, for an additional period of thirty (30) days after the Team Owner gives the City written notice of the expiration of the Mortgagee's cure period and of the Mortgagee's failure to cure the default; and the Team Owner shall accept such performance by or at the instance of the City as if the same had been made by CBBC; provided, however, if such default cannot be cured or remedied within such additional thirty (30) day period, such cure period shall be extended so long as the City commences the cure or remedy within such period and prosecutes to completion thereof with diligence and dispatch. The Team Owner shall give the City written notice of the expiration of the Mortgagee's cure period and its failure to cure a default.

7. Representations and Warranties of Team Owner.

The Team Owner represents, warrants and covenants as follows, as of the date hereof:

7.1 Valid Existence; Good Standing. The Team Owner is a limited partnership duly organized and validly existing under the laws of the State of California. The Team Owner has all requisite power and authority to own its property, including, but not limited to, the Franchise, and conduct its business as presently conducted. The Team Owner has made all filings and is in good standing in the jurisdiction of its organization, and in each jurisdiction in which the character of the property it owns or the nature of the business it transacts makes such filings necessary or where the failure to make such filings could have a material, adverse effect on the business, operations, assets or condition of the Team Owner.

7.2 Authority. The Team Owner has all requisite power and authority to execute and deliver this Agreement and to carry out and perform all of the terms and covenants of this Agreement.

7.3 No Limitation on Ability to Perform. Neither the Team Owner's limited partnership agreement or certificate of limited partnership or the articles of incorporation or by-laws of Magowan Baseball, Inc., a California corporation (the "Corporation"), the Team Owner's managing general partner, nor any rule, policy, constitution, by-law or agreement of the National League, the Office of the Commissioner of Baseball or any other Major League Baseball authority, nor any other agreement, law or other rule in any way prohibits, limits or otherwise affects the right or power of the Team Owner or the Corporation to enter into and perform all of the terms and covenants of this Agreement. No consent, authorization or approval of (except solely for the approvals of the Office of the Commissioner of Baseball and any other Major League Baseball authorities whose approval is required and the Team Owner's lenders, all of

which approvals the Team Owner represents and warrants that it has already obtained), or other action by, and no notice to or filing with, any governmental authority, regulatory body or any other person is required for the due execution, delivery and performance by the Team Owner and the Corporation of this Agreement or any of the terms and covenants contained herein. There are no pending or threatened suits or proceedings affecting the Team Owner or the Corporation before any court, governmental agency, or arbitrator which might materially adversely affect the enforceability of this Agreement or the business, operations, assets or condition of the Team Owner or the Corporation.

7.4 Valid Execution. The execution and delivery of this Agreement by the Team Owner has been duly and validly authorized by all necessary action. This Agreement will be a legal, valid and binding obligation of the Team Owner, enforceable against the Team Owner in accordance with its terms. As of the date hereof, the Team Owner shall provide the City with satisfactory evidence that the execution and delivery of the this Agreement by the person(s) signing on behalf of the Team Owner has been duly and validly authorized.

7.5 Defaults. The execution, delivery and performance of this Agreement (a) do not and will not violate or result in a violation of, contravene or conflict with, or constitute a default under (i) any agreement, document or instrument to which the Team Owner or the Corporation is a party or by which the Team Owner's or the Corporation's assets, including, but not limited to, the Franchise, may be bound or affected, (ii) any law, statute, ordinance, regulation or Baseball Rule and Regulation applicable to the Team Owner or the Corporation, or (iii) the articles of incorporation or by-laws of the Corporation, or the partnership agreement or certificate of limited partnership of the Team Owner, and (b) do not and will not result in the creation or imposition of any lien or other encumbrance upon the assets of the Team Owner or the Corporation.

7.6 Good Standing of Corporation. The Corporation is the Team Owner's sole managing general partner, and is a corporation duly organized, validly existing and in good standing under the laws of the State of California. The Team Owner has provided to the City a certificate of good standing for the Corporation issued by the California Secretary of State.

7.7 Power of Corporation. The Corporation has full corporate power and authority to execute and deliver this Agreement on behalf of the Team Owner as the Team Owner's sole managing general partner and to carry out on behalf of the Team Owner the terms and covenants of this Agreement.

7.8 Valid Execution by Corporation. The execution and delivery of this Agreement by the Corporation on behalf of the Team Owner as the Team Owner's sole managing general partner has been duly and validly authorized by all necessary action. The Team Owner has provided to the City a written resolution of the Corporation authorizing the execution of this Agreement on behalf of the Team Owner.

7.9 Team Ownership. The Team Owner is the sole owner of the Franchise as of the date hereof.

8. Indemnity.

The Team Owner shall indemnify, defend and hold the City and its officers, directors, commissioners, employees and agents (collectively, the "Indemnitees") harmless from and against any and all liabilities, obligations, losses, damages, penalties, actions, causes of action, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (including, without limitation, Attorneys' Fees and Costs as hereinafter defined) arising in connection with any breach of any of the representations, warranties or covenants contained in this Agreement. The Team Owner specifically acknowledges and agrees that it has an immediate and independent obligation to defend the indemnified parties from any claim which actually or potentially falls within any of these indemnity provisions even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to the Team Owner by any Indemnitee and continues at all times thereafter. The foregoing indemnity shall survive any termination of this Agreement.

9. Notices.

9.1 Notice by Team Owner.

(a) Notice of Proposed Relocation. During the term of the DDA and the Lease, the Team Owner shall provide the City with at least six (6) months' prior written notice of either of the following:

(i) Submittal of a written application to the National League for a proposed relocation of the Franchise to a location other than Ballpark; or

(ii) Execution of a written agreement to sell or transfer the Franchise that would involve relocation of the Franchise to a location other than Ballpark;

provided, however, in either case the relocation will occur after the end of the initial term of the Lease. Such notice shall specify in reasonable detail the reasons for such intention to relocate, including, but not limited to, any deficiencies in the Ballpark. Failure by the Team Owner to list every reason for such intention to relocate shall not invalidate the notice if the Team Owner prepared such notice in good faith and with reasonable diligence.

(b) Survival. Notwithstanding anything herein to the contrary, the provisions of subsection (a) shall survive any termination of this Agreement.

9.2 Address for Notices. Any notice, consent or approval required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given upon (i) hand delivery, against receipt, (ii) one day after being deposited with a reliable overnight courier service, or (iii) three (3) days after being deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, and addressed as follows:

CITY:	Mayor (Reference: China Basin Ballpark) City and County of San Francisco City Hall San Francisco, CA 94102 Facsimile: (415) 554-6160
with a copy to:	Port Director (Reference: China Basin Ballpark) Port of San Francisco 3100 Ferry Building San Francisco, CA 94111 Facsimile: (415) 274-1412
and to:	City Attorney (Reference: China Basin Ballpark) Fox Plaza 1390 Market Street, 5th Floor San Francisco, CA 94102-5408 Facsimile: (415) 554-4248
	Port General Counsel (Reference: China Basin Ballpark) Port of San Francisco 3100 Ferry Building San Francisco, CA 94111 Facsimile: (415) 274-0494
Team Owner:	San Francisco Baseball Associates L.P. Attention: Managing General Partner San Francisco Giants Executive Offices 3 Com Park at Candlestick Point San Francisco, CA 94124 Facsimile: (415) 467-2143
With a copy to:	General Counsel San Francisco Giants Executive Offices 3 Com Park at Candlestick Point San Francisco, CA 94124 Facsimile: (415) 467-3264

and to: Pillsbury Madison & Sutro LLP
Attention: Robert C. Herr, Esq.
14th Floor
235 Montgomery Street
San Francisco, CA 94104
Facsimile: (415) 983-1200

or to such other address as either party may from time to time specify in writing to the other upon five (5) days prior written notice in the manner provided above. For convenience of the parties, copies of notices may also be given by telefacsimile. However, neither party may give official or binding notice by facsimile. The effective time of a notice shall not be affected by the receipt, prior to receipt of the original, of a telefacsimile copy of the notice.

10. General.

10.1 Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, administrators and assigns, subject to the provisions of the Intercreditor Agreement. The Team Owner covenants that it shall not assign or transfer the Franchise at any time prior to the expiration of the Non-Relocation Term unless and until the transferee expressly agrees to be bound by the terms of this Agreement pursuant to a written agreement delivered to the City, except solely as otherwise expressly and particularly set forth in the Intercreditor Agreement.

10.2 Amendments. Except as otherwise provided herein, this Agreement may be amended or modified only by a written instrument executed by the City and the Team Owner, as approved by the Office of the Commissioner of Baseball and any other required Major League Baseball authorities, and to the extent required, by the lenders to the Team Owner and the lenders to CBBC permitted under the DDA and the Lease.

10.3 Waivers. No action taken pursuant to this Agreement by either party shall be deemed to be a waiver by that party of the other party's compliance with any of the provisions hereof. No waiver by either party of any breach of any provision of this Agreement shall be construed as a waiver of any subsequent or different breach. No forbearance by either party to seek a remedy for noncompliance hereunder or breach by the other party shall be construed as a waiver of any right or remedy with respect to such noncompliance or breach.

10.4 Governing Law; Selection of Forum. This Agreement shall be governed by and construed in accordance with the laws of the State of California. As part of the consideration for City's entering into the transaction contemplated by the DDA and the Lease, the Team Owner agrees that all actions or proceedings arising directly or indirectly under this Agreement may, at the sole option of City, be litigated in courts having situs within the State of California, and the Team Owner expressly consents to the jurisdiction of any such local, state or federal court, and consents that any service of process in such action or proceeding may be made by personal service upon the Team Owner wherever the Team Owner may then be located, or by certified or registered mail directed to the Team Owner at the address set forth in this Agreement for the delivery of notices.

10.5 Merger of Prior Agreements. The parties intend that this Agreement (including all of the attached exhibits and schedules, which are incorporated into this Agreement by reference) shall be the final expression of their agreement with respect to the subject matter hereof and may not be contradicted by evidence of any prior or contemporaneous oral or written agreements or understandings. The parties further intend that this Agreement shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including, without limitation, prior drafts or changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving this Agreement.

10.6 Interpretation of Agreement. The article, section and other headings of this Agreement and the table of contents are for convenience of reference only and shall not affect the meaning or interpretation of any provision contained herein. Whenever the context so requires, the use of the singular shall be deemed to include the plural and vice versa, and each gender reference shall be deemed to include the other and the neuter. This Agreement has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein. In addition, each party has been represented by experienced and knowledgeable legal counsel. Accordingly, any rule of law (including California Civil Code section 1654) or legal decision that would require interpretation of any ambiguities in this Agreement against the party that has drafted it is not applicable and is waived. The provisions of this Agreement shall be interpreted in a reasonable manner to effect the purposes of the parties and this Agreement.

10.7 Attorneys' Fees. If either party hereto fails to perform any of its respective obligations under this Agreement or if any dispute arises between the parties hereto concerning the meaning or interpretation of any provision of this Agreement, then the defaulting party or the party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party on account of such default and/or in enforcing or establishing its rights hereunder, including, without limitation, reasonable Attorneys' Fees and Costs (as defined in this Section below). Any such Attorneys' Fees and Costs incurred by either party in enforcing a judgment in its favor under this Agreement shall be recoverable separately from and in addition to any other amount included in such judgment, and such Attorneys' Fees and Costs obligation is intended to be severable from the other provisions of this Agreement and to survive and not be merged into any such judgment. For purposes of this Agreement, the reasonable fees of attorneys of City's Office of City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the City Attorney's Office. "Attorney's Fees and Costs" means all attorneys' fees, costs, expenses and disbursements, including, but not limited to, expert witness fees and costs, travel time and associated costs, transcript preparation fees and costs, document copying, exhibit preparation, courier, postage, facsimile, long-distance and communications expenses, court costs and the costs and fees associated with any other legal, administrative or alternative dispute resolution proceeding, fees and costs associated with execution upon any judgment or order, and costs on appeal.

10.8 Severability. If any provision of this Agreement, or the application thereof to any person, place, or circumstance, shall be held by a court of competent jurisdiction to be invalid,

unenforceable or void, the remainder of this Agreement and such provisions as applied to other persons, places and circumstances shall remain in full force and effect.

9.9 Recordation of Agreement. City may, at its sole election, cause this Agreement, or a memorandum hereof, to be recorded in the Official Records of the City and County of San Francisco.

10.10 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

10.11 Effective Date. As used herein, the term "Effective Date" shall mean the date on which this Agreement is executed and delivered by the City and the Team Owner. The Effective Date of this Agreement shall be inserted by the City on page 1 hereof; provided, however, no failure by the City to do so shall in any way invalidate this Agreement. The effectiveness of this Agreement is subject to the following conditions subsequent: (i) approval of the Office of Commissioner of Baseball and other required Major League Baseball authorities and (ii) the execution and delivery of the Intercreditor Agreement by the parties thereto.

10.12 MacBride Principles - Northern Ireland. The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1, et seq. The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. The Team Owner acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

10.13 Non-Discrimination in City Contracts and Benefits Ordinance. In the performance of the Baseball Sublease, Team Owner shall not discriminate in employment, use or benefits as further provided in the Nondisturbance Agreement.

10.14 Termination. Upon the expiration of the Non-Relocation Term or the earlier termination of this Agreement, all rights of the City under this Agreement shall terminate, except as provided in Section 9.1, and except for a default by Team Owner of this Agreement occurring prior to the date of such expiration or earlier termination. Upon request of Team Owner, the City shall confirm in writing the fact of such termination if it has occurred.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

TEAM OWNER:

SAN FRANCISCO BASEBALL ASSOCIATES L.P.
a California limited partnership
By: Magowan Baseball, Inc.,
a California corporation
its Managing General Partner

By _____
Peter A. Magowan, President

AGREED AND CONSENTED TO
AS TO SECTION 6:

CHINA BASIN BALLPARK COMPANY LLC,
a Delaware limited liability company

By_____
Peter A. Magowan
Chairman and Chief Executive Officer

ACCEPTED AND AGREED:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By_____
Willie Lewis Brown, Jr., Mayor

By_____
Douglas F. Wong
Port Executive Director

[Signatures Continue]

APPROVED AS TO FORM:

LOUISE H. RENNE
City Attorney

By_____
Julie Van Nostern
Port General Counsel

By_____
Jesse Capin Smith
Deputy City Attorney

[Draft--07/08/97]

EXHIBIT B

INTERCREDITOR AGREEMENT dated as of [ ], 1997 (this "Agreement"), among SAN FRANCISCO BASEBALL ASSOCIATES L.P., a California limited partnership, THE CITY AND COUNTY OF SAN FRANCISCO, THE SAN FRANCISCO REDEVELOPMENT AGENCY, CHINA BASIN BALLPARK COMPANY LLC, a Delaware limited liability company and THE CHASE MANHATTAN BANK, as Administrative Agent under the Team Credit Facility (as defined below), on behalf of each of the TEAM LENDERS (as defined below) and as Administrative Agent under the Stadium Credit Facility (as defined below), on behalf of each of the STADIUM LENDERS (as defined below).

The parties hereto hereby agree as follows:

ARTICLE I

Work-out Sales

SECTION 1.01. Initiation of Sale Process. In the event that an Event of Default has occurred and is continuing under the Team Credit Facility, the administrative agent under the Team Credit Facility shall have the right, at the direction of the Majority Team Lenders, to deliver a notice (a "Default Notice") to the Team Owner and the City to the effect that (i) such an Event of Default has occurred and is continuing and (ii) the date of delivery of such notice will be deemed a "Default Notice Date" for purposes of this Agreement.

SECTION 1.02. Standstill Period. The period commencing on a Default Notice Date and ending on the 90th day following such Default Notice Date is hereinafter referred to as the "Standstill Period". During the Standstill Period, no Work-out Sale shall be completed, and the City and the Team Owner shall have the right to negotiate the sale of the Giants Franchise with any third party. During the Standstill Period, the City and the Team Owner shall also have the right to cause such sale to be consummated, provided that (a) such third party shall assume in writing in a manner reasonably satisfactory to the Team Owner and the City all of the obligations of the Team Owner under the Non-Relocation Agreement and the Baseball Sublease (a "Non-Relocation Assumption") and (b) either (i) the terms of such sale would qualify as a Satisfactory Offer or (ii) the terms of such sale are approved by the Majority Team Lenders. In addition, during the Standstill Period the Team Owner and the Team Lenders shall have the right to negotiate the Work-out Sale of the Giants Franchise with any third party who would not agree to a Non-Relocation Assumption, but shall not have the right to consummate any such sale.

SECTION 1.03. Restricted Sale Period. (a) If the Giants Franchise is not sold during the Standstill Period pursuant to Section 1.02 above, then the rights of the City, the Team Owner and the Team Lenders under Section 1.02 of this Agreement to negotiate the sale of the Giants Franchise with third parties shall continue unless the Team Lenders withdraw the Default Notice by written notice to each party hereto, in which case such rights shall terminate and so shall the right of the Team Lenders to effect a Work-out Sale in connection with such Default Notice (but not any Default Notices subsequently

delivered) (the period commencing upon the expiration of the Standstill Period and continuing until such a withdrawal of the Default Notice or any sale of the Giants Franchise in accordance with this Section 1.03 is hereinafter referred to as the "Restricted Sale Period"). No such withdrawal of a Default Notice shall constitute a waiver of the underlying Event of Default referenced therein.

(b) If at any time after the commencement of the Restricted Sale Period and prior to the delivery to the City of an Outside Offer Notice (as defined below) the City delivers to each party hereto a notice (a "Satisfactory Offer Notice") attached to which is a Satisfactory Offer, then, subject to paragraph (d) below, the Team Owner or Team Lenders, as applicable, shall within 10 days following such delivery (with respect to this paragraph (b), the "Final Decision Period") accept such Satisfactory Offer and execute the definitive agreement contained therein.

(c) The Team Lenders and the Team Owner shall have no right to sell the Giants Franchise to any third party who has not entered into a Non-Relocation Assumption (an "Outside Bidder") during the Restricted Sale Period except in accordance with the terms of this paragraph (c) and paragraph (e) below. If the Team Lenders or the Team Owner desire to sell the Giants Franchise to an Outside Bidder pursuant to a Work-out Sale during the Restricted Sale Period, the Team Lenders or the Team Owner, as applicable, shall deliver to each party hereto a notice (an "Outside Offer Notice") attached to which is a Bona Fide Offer from an Outside Bidder (an "Outside Offer") to purchase the Giants Franchise pursuant to a Work-out Sale (the date on which such Outside Offer Notice is delivered is hereinafter referred to as the "Outside Offer Notice Date"). If during the 10-day period following the Outside Offer Notice Date (the "Response Period") the City delivers a notice (a "Local Offer Notice") to each party hereto attached to which is either a Matching Offer (determined in relation to such Outside Offer) or a Satisfactory Offer, then, subject to paragraph (d) below, within 10 days following delivery of such Local Offer Notice (with respect to this paragraph (c), the "Final Decision Period"), the Team Owner or the Team Lenders, as applicable, shall accept the Matching Offer or Satisfactory Offer attached thereto and execute the definitive agreement contained therein. If the City does not so deliver a Local Offer Notice during the Response Period, then the Team Lenders or Team Owner, as applicable, may accept such Outside Offer (and thereupon execute the definitive agreement contained therein) or another offer on the same or more favorable terms.

(d) If (i) pursuant to paragraph (b) above the City has delivered a notice to each party hereto which purports to be a Satisfactory Offer Notice or pursuant to paragraph (c) above the City has delivered a notice to each party hereto which purports to be a Local Offer Notice and (ii) as a result of (A) provisions included in the relevant offer, (B) provisions not included in the relevant offer, (C) ambiguities in the relevant offer or (D) any combination of the foregoing, the Team Lenders or Team Owner are not certain as to whether or not the relevant offer constitutes a Satisfactory Offer or Matching Offer, as applicable, then the Team Lenders or Team Owner may, prior to the expiration of the Final Decision Period, deliver a written notice (a "Clarification Request") requesting changes or clarifications to the City and the relevant offeror. The City and such offeror shall have 10 days to respond in writing to any such request, and any such response (a "Clarifying Response") shall be deemed an amendment of the relevant offer, and the Final Decision Period shall be extended until the date which is 10 days following the date of such response (or, if no such Clarifying Response is provided, 10 days following the last day on which this paragraph (d) permits a Clarifying Response to be delivered). Any

ambiguity contained in any offer attached to a notice which purports to be a Satisfactory Offer Notice or a Local Offer Notice which is identified in a Clarification Request, to the extent not clarified to the satisfaction of the Team Lenders or Team Owner in a Clarifying Response, will be construed, solely for purposes of determining whether an offer qualifies under the definitions contained in Article IV hereof as a Satisfactory Offer or a Matching Offer, as applicable, in the manner which is most likely to result in such offer not qualifying as a Satisfactory Offer or a Matching Offer.

(e) If a Satisfactory Offer or a Matching Offer has been accepted by the Team Owner or the Team Lenders in accordance with the terms of this Article I and a sale of the Giants Franchise is not consummated on the terms contained in such offer within 60 days following the date of such acceptance, then the Team Lenders or the Team Owner, as applicable, shall have the right to terminate the acceptance of such offer and shall thereafter have the unfettered right to sell the Giants Franchise to an Outside Buyer in a Work-out Sale during the remainder of the Restricted Sale Period. Each party hereto agrees to use its reasonable efforts to cause such consummation to occur prior to the end of such 60 day period. Subject to the foregoing provisions of this Section 1.03(e), if an Outside Offer has been accepted by the Team Owner or the Team Lenders pursuant to Section 1.03(c) above and a sale of the Giants Franchise is not consummated on the terms contained in such offer within 120 days following the date of such acceptance, then the Team Lenders or the Team Owner, as applicable, shall immediately terminate the acceptance of such offer and shall not accept another Outside Offer (including such an offer on substantially the same terms as, and with the same offeror under, the Outside Offer the acceptance of which is so terminated) without first complying with the requirements of Section 1.03(c) above.

SECTION 1.04. Effect of Non-Relocation Agreement. This Article I does not contemplate or provide for a sale of the Giants Franchise to an Outside Bidder other than pursuant to a Work-out Sale, and the Team Lenders and the Team Owner acknowledge that they are restricted from engaging in such a sale to an Outside Bidder (other than a Work-out Sale) in the manner set forth in the Non-Relocation Agreement. In this regard, each of the parties hereto further acknowledges and agrees that notwithstanding anything in the Non-Relocation Agreement to the contrary, no provision of the Non-Relocation Agreement shall be deemed in any way to restrict, impair, impinge on or relate to the right of the Team Lenders or the Team Owner to sell the Giants Franchise to an Outside Bidder in a Work-out Sale, and the only restrictions with respect thereto shall be the requirements of this Agreement. Each party hereto agrees that to the extent the Non-Relocation Agreement could be construed to be inconsistent with the immediately preceding sentence, the Non-Relocation Agreement shall be deemed amended hereby to eliminate such inconsistency. The City agrees that if it at any time asserts in writing that any provision of this Agreement shall be unenforceable, void, invalid, illegal or of no effect, then it shall be prohibited from enforcing any provision of the Non-Relocation Agreement (for the avoidance of doubt, this sentence shall not be deemed to apply to any assertion that any action of any party hereto constitutes a breach or violation of any provision of this Agreement).

SECTION 1.05. Other Intercreditor Agreements. The parties acknowledge that the terms of this Article I do not in any way amend, limit or result in a waiver of any existing or future agreements between the Team Lenders and the Stadium Lenders regarding a Work-out Sale or otherwise.

ARTICLE II

Subordination

SECTION 2.01. Subordination of City and RDA to Team Lenders. The rights of and obligations owing to the City or the RDA under the Non-Relocation Agreement and, upon its effectiveness, the Team-City Guarantee (and all other obligations of the Team Owner with respect to any rights or claims of any kind of the City or the RDA against the Team Owner (whether based on contract, tort, misrepresentation, fraud or any other theory of liability)) based on or directly related to the Non-Relocation Agreement and/or the Team-City Guarantee shall be subordinated to the rights of and obligations owing to the Team Lenders under the Team Credit Facility as and to the extent specified in Annex A hereto, and the City, the RDA, the Team Lenders and the Team Owner agree to be subject to the terms of Annex A hereto (which terms are incorporated by reference into this Section 2.01), in each case as if (a) the City and the RDA are the Subordinated Parties referred to therein, (b) the Team Lenders are the Senior Parties referred to therein, (c) the Team Owner is the Debtor referred to therein, (d) the obligations of the Team Owner to the City or the RDA under the Non-Relocation Agreement and upon its effectiveness the Team-City Guarantee (and any other obligations referred to above of the Team Owner to the City or the RDA) are the Subordinated Obligations referred to therein and (e) the obligations of the Team Owner to the Team Lenders under the Team Credit Facility are the Senior Obligations referred to therein.

ARTICLE III

Miscellaneous

SECTION 3.01. Counterparts. This Agreement may be executed by one or more of the parties on any number of separate counterparts, each of which shall constitute an original but all of which taken together shall be deemed to constitute but one instrument.

SECTION 3.02. Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

SECTION 3.03. Integration. This Agreement represents the agreement of the parties hereto with respect to the subject matter hereof and there are no promises or representations by any party hereto relative to the subject matter hereof not reflected herein.

SECTION 3.04. Amendments in Writing; No Waiver; Cumulative Remedies. (a) None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by each party hereto.

(b) No failure to exercise, nor any delay in exercising, on the part of any party hereto, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

(c) The rights and remedies herein provided are cumulative, may be exercised singly or concurrently and are not exclusive of any other rights or remedies provided by law (except to the extent the exercise of such other rights or remedies provided by law to any party hereto would result in any other party hereto being unable to exercise any right specifically granted by this Agreement to such other party hereto).

SECTION 3.05. Section Headings. The section headings used in this Agreement are for convenience of reference only and are not to affect the construction hereof or be taken into consideration in the interpretation hereof.

SECTION 3.06. Successors and Assigns. This Agreement shall be binding upon the successors and assigns of each party hereto and shall inure to the benefit of each party hereto and its respective successors and assigns. Each of the parties hereto acknowledges that the Team Owner has assigned substantially all of its general intangibles, including its rights under this Agreement, to the Team Lenders to secure its obligations under the Team Credit Agreement and each such party agrees that during any period that a Default Notice has been given and not withdrawn the Team Lenders shall have the right to exercise any rights of the Team Owner hereunder.

SECTION 3.07. Governing Law; Jurisdiction; Consent to Service of Process. (a) This Agreement shall be construed in accordance with and governed by the law of the State of New York.

(b) Each party hereto hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of the Supreme Court of the State of New York sitting in New York County and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement, or for recognition or enforcement of any judgment, and each party hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

(c) Each party hereto hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in any court referred to in paragraph (b) of this Section 3.07. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

SECTION 3.08. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY

LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 3.08.

SECTION 3.09. Notices. All notices, requests and demands to or upon any party hereto shall be in writing and shall be given in the manner provided for notices (a) in the case of the Team Lenders and the Team Owner, in the credit agreement or similar agreement for the Team Credit Facility, (b) in the case of the Stadium Lenders and the Stadium Owner, in the credit agreement, note purchase agreement or similar agreement with respect to the Stadium Credit Facility and (c) in the case of the City, and the RDA, in the Ground Lease.

SECTION 3.10. Covenant Against Collusion. Notwithstanding any other provision of this Agreement, the Non-Relocation Agreement and the Team-City Guarantee, each of the Team Owner and the Stadium Owner hereby covenant to the City, the RDA, the Team Lenders and the Stadium Lenders that it shall not by agreement or other understanding between the Team Owner and the Stadium Owner, cause the Stadium Owner to breach its obligations to the Team Owner as landlord under the Baseball Sublease, for the purpose of evading the Team Owner's obligations under the Non-Relocation Agreement, the Team-City Guarantee and/or this Agreement.

ARTICLE IV

Definitions

SECTION 4.01. Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

"Baseball Sublease" shall mean [ ].

"Bona Fide Offer" shall mean any offer to purchase the Giants Franchise which has the following aspects:

(a) such offer includes a definitive purchase agreement which contains all the material terms of such offer in reasonable detail consistent with customary acquisition agreements of its type, and which has been fully executed by the offeror;

(b) such offer can be accepted by the execution and delivery by the Team Owner or Team Lenders, as applicable, of such definitive purchase agreement, at any time within 30 days of the first date on which such offer has been delivered to each party to this Agreement in accordance with the terms hereof, in which event

such definitive agreement will be legally binding on each of the Team Owner or Team Lenders, as applicable, and such offeror;

(c) such definitive agreement, once executed and delivered by the relevant parties, can by its terms be terminated by the Team Lenders if the transactions contemplated thereby have not been consummated during the 60 day period following such execution and delivery;

(d) such offer is made by a single entity and such offer describes in reasonable detail (i) such offeror and (ii) each person or entity who is an affiliate of such offeror, including all direct and indirect holders of equity interests (other than unaffiliated stockholders of public companies) in such offeror;

(e) such offer and such offeror has received all necessary approvals of Major League Baseball;

(f) such offer and such definitive purchase agreement does not involve any breach or violation of any law or any regulation, rule or requirement of Major League Baseball or any governmental or regulatory authority;

(g) each of such offer and definitive purchase agreement is governed by New York or California law; and

(h) the subject of such offer is limited to the sale of the Giants Franchise and matters reasonably related thereto.

The determination of whether an offer qualifies as a Bona Fide Offer shall be made in good faith by the Majority Team Lenders, and such determination shall be binding on the parties hereto in the absence of bad faith or gross negligence.

"City" shall mean the City and County of San Francisco.

"Event of Default" shall mean, with respect to any agreement, any "Event of Default" as such term is defined under such agreement.

"Giants Franchise" shall mean the San Francisco Giants National League baseball franchise, together with membership in the National League and the rights associated therewith.

"Ground Lease" shall mean the Ground Lease referred to in the Stadium Credit Facility.

"Majority Team Lenders" shall mean the Required Lenders referred to in the Team Credit Facility.

"Major League Baseball" shall mean the National League of Professional Baseball Clubs (the "National League"), the American League of Professional Baseball Clubs (the "American League"), the member clubs of the American League and the National League, the Office of the Commissioner of Baseball, and the respective owners, shareholders, officers, directors, employees and agents of each of the foregoing entities, either severally or collectively.

"Matching Offer" shall mean any Bona Fide Offer to purchase the Giants Franchise which has the following aspects:

(a) the price terms of such offer (including but not limited to amount, structure, type of consideration and timing of payment) are at least as favorable as the corresponding terms of the relevant Outside Offer. In this regard, the Team Lenders may set forth in the Outside Offer Notice specific elements relating to the price terms of such Outside Offer which they deem material, in which case an offer will not qualify as a Matching Offer unless each of its corresponding price terms are as favorable to the Team Lenders and the Stadium Lenders as such material price terms in such Outside Offer;

(b) such offer does not contain any material conditions, termination events or similar terms or events which are not contained in the relevant Outside Offer;

(c) the other terms of the definitive agreement included as part of such offer are at least as favorable to the Team Lenders and the Stadium Lenders as such other terms of the definitive agreement included as part of such Outside Offer;

(d) the likelihood of consummating such offer is no lower than the likelihood of consummating such Outside Offer;

(e) funds necessary to consummate such offer are as likely to be available to such offeror as funds necessary to consummate the relevant Outside Offer are likely to be available to the relevant Outside Bidder;

(f) such offeror shall have agreed to execute at closing a Non-Relocation Assumption; and

(g) such offer shall describe in reasonable detail the manner in which such offer qualifies as a Bona Fide Offer and a Matching Offer.

The determination of whether an offer qualifies as a Matching Offer shall be made in good faith by the Majority Team Lenders, and such determination shall be binding on the parties hereto in the absence of bad faith or gross negligence.

"Non-Relocation Assumption" shall have the meaning given in Section 1.02.

"Non-Relocation Agreement" shall mean [to be inserted].

"parties" or "parties hereto" shall mean the City, the RDA, each of the Team Lenders, each of the Stadium Lenders and the Team Owner.

"RDA" shall mean the San Francisco Redevelopment Agency.

"Satisfactory Offer" shall mean any Bona Fide Offer to purchase the Giants Franchise which has the following aspects:

(a) the consummation of such offer would result in the indefeasible payment at a single closing in full in cash in U.S. dollars by the offeror (i) to the Team Lenders in an amount equal to the aggregate amount owed by the Team Owner to the Team Lenders pursuant to the Team Credit Facility and any related agreements and (ii) to the Stadium Lenders in an amount equal to the aggregate amount owed by the Stadium Owner to the Stadium Lenders pursuant to the Stadium Credit Facility and any related agreements;

(b) an indemnity in form and substance reasonably satisfactory to the Team Lenders and Stadium Lenders which has the effect of fully shielding such Team Lenders and Stadium Lenders from any liabilities or obligations relating in any way to the Team Owner, the Stadium Owner and the Giants Franchise ("Giants Obligations") following the consummation of such offer;

(c) the consummation of such offer would not result in the Team Lenders or Stadium Lenders assuming or retaining any Giants Obligations following the consummation of such offer;

(d) the definitive agreement contained in such offer is subject only to closing conditions customary for agreements of its type;

(e) there is a substantial likelihood that such offer will, if accepted, be consummated within 60 days;

(f) such definitive agreement contains no representations or warranties from the Team Lenders or Team Owner other than with respect to the ownership of the Giants Franchise;

(g) such offeror shall have agreed to execute at closing a Non-Relocation Assumption; and

(h) such offer shall describe in reasonable detail the manner in which such offer qualifies as a Bona Fide Offer and a Satisfactory Offer.

The determination of whether an offer qualifies as a Satisfactory Offer shall be made in good faith by the Majority Team Lenders, and such determination shall be binding on the parties hereto in the absence of bad faith or gross negligence.

"Stadium Credit Facility" shall mean the Construction Loan Agreement dated as of October 30, 1996, as amended, among the Stadium Owner, the lenders party thereto and The Chase Manhattan Bank, as administrative agent and collateral agent and the Security Documents referred to in such Credit Agreement, or any successor or replacement facility (including any financing or refinancing thereof undertaken through a private placement, Rule 144A transaction, public offering or otherwise, whether or not expressly stated to be a successor or replacement facility or such a financing or refinancing).

"Stadium Lenders" shall mean the Lenders referred to in the Stadium Credit Facility (or the creditors under any replacement or successor facility).

"Stadium Owner" shall mean China Basin Ballpark Company LLC, a Delaware limited liability company.

"Team-City Guarantee" shall mean any agreement or instrument pursuant to which the Team Owner guarantees or agrees to guarantee any obligation under or in connection with the Non-Relocation Agreement or the Ground Lease for the benefit of the City, the RDA or any related entity.

"Team Credit Facility" shall mean the Credit Agreement dated as of October 30, 1996, as amended, among the Team Owner, the lenders party thereto, The Chase Manhattan Bank, as administrative agent and collateral agent and Chase Manhattan Delaware, as issuing bank, and the Security Documents referred to in such Credit Agreement, or any successor or replacement facility.

"Team Lenders" shall mean the Lenders referred to in the Team Credit Facility (or the creditors under any replacement or successor facility).

"Team Owner" shall mean San Francisco Baseball Associates L.P., a California limited partnership.

"Work-out Sale" shall mean any sale by or at the direction of the Team Lenders of the Giants Franchise as a result of an Event of Default under the Team Credit Facility, including but not limited to any such sale resulting therefrom in connection with a foreclosure or judicial proceedings with similar purposes or transfer in lieu of foreclosure or work-out or restructuring of the indebtedness and other obligations of the Team Owner or a

bankruptcy, insolvency or similar proceeding relating to the Team Owner.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the day and year first above written.

SAN FRANCISCO BASEBALL ASSOCIATES L.P.,

by _____

Name:

Title:

THE CITY AND COUNTY OF SAN FRANCISCO,

by _____

Name:
Title:

THE SAN FRANCISCO REDEVELOPMENT AGENCY,

by _____

Name:
Title:

CHINA BASIN BALLPARK COMPANY LLC,

by _____

Name:
Title:

THE CHASE MANHATTAN BANK, as Administrative Agent under the Team Facility, on behalf of each of the TEAM LENDERS,

by _____

Name:
Title:

THE CHASE MANHATTAN BANK, as Administrative Agent under the Stadium

Facility, on behalf of each of the STADIUM LENDERS,

by _____
Name:
Title:

ANNEX A

TERMS OF SUBORDINATION

1. Subordination. (a) Each Subordinated Party[1] hereby agrees that all its right, title and interest in and to the Subordinated Obligations shall be subordinate, and junior in right of payment, to the rights of the Senior Parties in respect of the Senior Obligations, including principal, premium (if any), interest (including interest accruing on or after the filing of any petition in bankruptcy or for reorganization relating to the Debtor or any subsidiary thereof whether or not a claim for post-filing interest is allowed or allowable in any such proceedings), fees, charges, expenses (including but not limited to expenses in connection with claims and litigation), damages, reimbursement obligations, guarantees and all other amounts payable thereunder or in respect thereof.

(b) The Debtor and the Subordinated Parties agree that, except as set forth in paragraph (c) below, no payment (whether directly, by purchase, redemption or exercise of any right of setoff or otherwise) in respect of the Subordinated Obligations, whether as principal, interest or otherwise, and whether in cash, securities or property, shall be made by or on behalf of the Debtor or received, accepted, asked for, sued for or demanded, directly or indirectly, by or on behalf of any Subordinated Party unless and until all Senior Obligations have been indefeasibly paid in full in cash to the Senior Parties.

(c) The Debtor may pay, and the Subordinated Parties may receive, accept and demand, any payment due and owing on the Subordinated Obligations so long as no Event of Default exists under the Senior Obligations.

(d) Upon any distribution of the assets of the Debtor or upon any dissolution, winding up, liquidation or reorganization of the Debtor, whether in bankruptcy, insolvency, reorganization, arrangement or receivership proceedings or otherwise, or upon any assignment for the benefit of creditors or any other marshalling of the assets and liabilities of the Debtor, or otherwise:

> (i) the Senior Parties shall first be entitled to receive indefeasible payment in full in cash of the Senior Obligations (whenever arising) before any Subordinated Party shall be entitled to receive any payment on account of the Subordinated Obligations, whether of principal, interest or otherwise; and
>
> (ii) any payment by, or on behalf of, or distribution of the assets of, the Debtor of any kind or character, whether in cash, property or securities, to which any Subordinated Party would be entitled except for the provisions of this Section 1 shall be paid or delivered by the person making such payment or distribution (whether a trustee in bankruptcy, a receiver, custodian or liquidating trustee or otherwise) directly to a designated agent of the Senior Parties, for the benefit of the Senior Parties, until the indefeasible payment in full of all Senior Obligations.

Each Subordinated Party agrees that in connection with any proceeding involving the Debtor under any Federal or state bankruptcy, insolvency, receivership or similar law (i) the Senior Parties are irrevocably authorized and empowered (in their own name or in

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[1] Capitalized terms used but not defined in this Annex A shall have the meanings assigned thereto in Section 2.01 of the Agreement to which this Annex A is attached.

the name of any Subordinated Party or otherwise), but shall have no obligation, to demand, sue for, collect and receive every payment or distribution referred to in the preceding sentence and give acquittance therefor and to file claims and proofs of claim and take such other action (including, without limitation, voting the Subordinated Obligations and enforcing any security interest or other lien securing payment of the Subordinated Obligations) as the Senior Parties may deem necessary or advisable for the exercise or enforcement of any of the rights or interest of the Senior Parties and (ii) the Subordinated Parties shall duly and promptly take such action as the Senior Parties may request to (A) collect amounts in respect of the Subordinated Obligations for the account of the Senior Parties and to file appropriate claims or proofs of claim in respect of the Subordinated Obligations, (B) execute and deliver to the Senior Parties such irrevocable powers of attorney, assignments or other instruments as the Senior Parties may request in order to enable the Senior Parties to enforce any and all claims with respect to, and any security interests and other liens securing payment of, the Subordinated Obligations and (C) collect and receive any and all payments or distributions which may be payable or deliverable upon or with respect to the Subordinated Obligations. A copy of this Agreement and this Annex may be filed with any court as evidence of the Senior Parties' right, power and authority hereunder.

(e) In the event that any payment by, or on behalf of, or distribution of the assets of, the Debtor of any kind or character, whether in cash, property or securities, and whether directly, by purchase, redemption, exercise of any right of setoff or otherwise, shall be received by or on behalf of any Subordinated Party or any Affiliate thereof at a time when such payment is prohibited by this Agreement, such payment or distribution shall be held by such Subordinated Party in trust (segregated from other property of such Subordinated Party) for the benefit of, and shall forthwith be paid over to, the Senior Parties, until the indefeasible payment in full in cash of all Senior Obligations.

(f) Subject to the prior indefeasible payment in full in cash of the Senior Obligations, the Subordinated Parties shall be subrogated to the rights of the Senior Parties to receive payments or distributions in cash, property or securities of the Debtor applicable to the Senior Obligations until all amounts owing on the Senior Obligations shall be indefeasibly paid in full in cash, and as between and among the Debtor, its creditors (other than the Senior Parties) and the Subordinated Parties, no such payment or distribution made to the Senior Parties by virtue hereof that otherwise would have been made to the Subordinated Parties shall be deemed to be a payment by the Debtor on account of the Subordinated Obligations, it being understood that the provisions of this paragraph (f) are intended solely for the purpose of defining the relative rights of the Subordinated Parties and the Senior Parties.

(g) Without the prior written consent of the Senior Parties, the Debtor will not give, or permit to be given, and the Subordinated Parties will not receive, accept or demand, (i) any security of any nature whatsoever for any Subordinated Obligations on any property or assets, whether now existing or hereafter acquired, of the Debtor or any subsidiary thereof or (ii) any guarantee, of any nature whatsoever, by the Debtor or any subsidiary thereof, of any Subordinated Obligations.

(h) Each Subordinated Party agrees that, except (i) for claims submitted in any proceeding contemplated by Section 1(d) hereof, it will not take any action to cause any Subordinated Obligations to become payable prior to its scheduled payment date or exercise any remedies or take any action or proceeding to enforce the

payment of any Subordinated Obligation if the payment of such Subordinated Obligation is then prohibited by this Agreement, and each Subordinated Party further agrees not to file, or to join with any other creditors of the Debtor in filing, any petition commencing any bankruptcy, insolvency, reorganization, arrangement or receivership proceeding or any assignment for the benefit of creditors against or in respect of the Debtor or any other marshaling of the assets and liabilities of the Debtor. Each Subordinated Party further agrees, to the fullest extent permitted under applicable law, that it will not cause the Debtor to file any such petition, commence any such proceeding or make any such assignment referred to above until all Senior Obligations have been indefeasibly paid in full in cash.

2. Waivers and Consents. (a) Each Subordinated Party waives the right to compel that any collateral or any other property of the Debtor or the property of any guarantor of the Senior Obligations or any other person be applied in any particular order to discharge the Senior Obligations. Each Subordinated Party expressly waives the right to require the Senior Parties to proceed against the Debtor, any collateral or any guarantor of the Senior Obligations or any other person, or to pursue any other remedy in any Senior Party's power which any Subordinated Party cannot pursue and which would lighten any Subordinated Party's burden, notwithstanding that the failure of any Senior Party to do so may thereby prejudice any Subordinated Party. Each Subordinated Party agrees that it shall not be discharged, exonerated or have its obligations hereunder to the Senior Parties reduced by any Senior Party's delay in proceeding against or enforcing any remedy against the Debtor, any collateral or any guarantor of the Senior Obligations or any other person; by any Senior Party releasing the Debtor, any collateral or any guarantor of the Senior Obligations or any other person from all or any part of the Senior Obligations; or by the discharge of the Debtor, any collateral or any guarantor of the Senior Obligations or any other person by an operation of law or otherwise, with or without the intervention or omission of a Senior Party, other than on account of the indefeasible payment in full of the Senior Obligations to the Senior Parties. Any Senior Party's vote to accept or reject any plan of reorganization relating to the Debtor, any collateral, or any guarantor of the Senior Obligations or any other person, or any Senior Party's receipt on account of all or part of the Senior Obligations of any cash, property, or securities distributed in any bankruptcy, reorganization, or insolvency case, shall not discharge, exonerate, or reduce the obligations of any Subordinated Party hereunder to the Senior Parties, other than on account of the indefeasible payment in full of the Senior Obligations to the Senior Parties.

(b) Each Subordinated Party waives all rights and defenses arising out of an election of remedies by the Senior Parties, even though that election of remedies, including without limitation any nonjudicial foreclosure with respect to security for the Senior Obligations, has impaired the value of any Subordinated Party's rights of subrogation, reimbursement, or contribution against the Debtor or any guarantor of the Senior Obligations or any other person. Each Subordinated Party expressly waives any rights or defenses it may have by reason of protection afforded to the Debtor or any guarantor of the Senior Obligations or any other person with respect to the Senior Obligations pursuant to any anti-deficiency laws or other laws of similar import which limit or discharge the principal debtor's indebtedness upon judicial or nonjudicial foreclosure of real property or personal property collateral for the Senior Obligations.

(c) Each Subordinated Party agrees that, without the necessity of any reservation of rights against it, and without notice to or further assent by it, any demand

for payment of any Senior Obligations made by a Senior Party may be rescinded in whole or in part by such Senior Party, and any Senior Obligation may be continued, and the Senior Obligations, or the liability of the Debtor or any of its subsidiaries or any other guarantor or any other party upon or for any part thereof, or any collateral or guarantee therefor or right of offset with respect thereto, may, from time to time, in whole or in part, be renewed, extended, modified, accelerated, compromised, waived, surrendered, or released by the Senior Parties, in each case without notice to or further assent by any Subordinated Party, which will remain bound under this Agreement and the terms of this Annex, and without impairing, abridging, releasing or affecting the subordination provided for herein.

(d) Each Subordinated Party waives any and all notice of the creation, renewal, extension or accrual of any of the Senior Obligations and notice of or proof of reliance by the Senior Parties upon this Agreement or this Annex. The Senior Obligations, and any of them, shall be deemed conclusively to have been created, contracted or incurred and the consent given to create the obligations of the Debtor in respect of the Subordinated Obligations in reliance upon this Agreement, and all dealings between the Debtor and the Senior Parties shall be deemed to have been consummated in reliance upon this Agreement. Each Subordinated Party waives notice of or proof of reliance on this Agreement and protest, demand for payment and notice of default.

3. Transfers. The Subordinated Parties shall not sell, assign, or otherwise transfer or dispose of, in whole or in part, all or any part of the Subordinated Obligations, or any interest or right therein or relating thereto to any other person (a "Transferee") or create, incur or suffer to exist any security interest, lien, charge or other encumbrance whatsoever upon all or any part thereof unless (i) such action is made expressly subject to this Agreement and this Annex and (ii) the Transferee expressly acknowledges to the Senior Parties, by a writing in form and substance reasonably satisfactory to the Senior Parties or their administrative agent, if any, the subordination provided for herein and in such writing agrees to be bound by all of the terms of this Agreement and this Annex, including without limitation Article II of this Agreement and this Section 3, as if such person were a Subordinated Party.

4. Senior Obligations Unconditional. All rights and interests of the Senior Parties hereunder, and all agreements and obligations of the Subordinated Parties and the Debtor hereunder, shall remain in full force and effect irrespective of:

(a) any lack of validity or enforceability of any agreement governing or relating to the Senior Obligations or Subordinated Obligations;

(b) any change in the time, manner or place of payment of, or in any other term of, all or any of the Senior Obligations, or any amendment or waiver or other modification, whether by course of conduct or otherwise, of, or consent to departure from any agreement governing or relating to the Senior Obligations;

(c) any exchange, release or nonperfection of any lien in any collateral, or any release, amendment, waiver or other modification, whether in writing or by course of conduct or otherwise, of or consent to departure from, any guarantee of any of the Senior Obligations; or

(d) any other circumstances that might otherwise constitute a defense available to, or a discharge of, the Debtor in respect of the Senior Obligations, or of any Subordinated Party or the Debtor in respect of this Agreement, other than on account of the indefeasible payment in full of the Senior Obligations to the Senior Parties.

5. Waiver of Claims. (a) To the maximum extent permitted by law, each Subordinated Party waives any claim it might have against any Senior Party with respect to, or arising out of, any action or failure to act or any error of judgment, negligence, or mistake or oversight whatsoever on the part of any Senior Party or its directors, officers, employees or agents with respect to any exercise of rights or remedies under the agreements governing or relating to the Senior Obligations.

(b) Each Subordinated Party, for itself and on behalf of its successors and assigns, hereby waives any and all now existing or hereafter arising rights it may have to require the Senior Parties to marshall assets for the benefit of such Subordinated Party, or to otherwise direct the timing, order or manner of any sale, collection or other enforcement of any collateral. The Senior Parties are under no duty or obligation, and each Subordinated Party hereby waives any right it may have to compel the Senior Parties, to pursue any guarantor or other person who may be liable for the Senior Obligations, or to enforce any lien or security interest in any collateral.

(c) Each Subordinated Party hereby waives and releases all rights which a guarantor or surety with respect to the Senior Obligations could exercise.

(d) Each Subordinated Party hereby waives any duty on the part of the Senior Parties to disclose to it any fact known or hereafter known by the Senior Parties relating to the operation or financial condition of the Debtor or any guarantor of the Senior Obligations, or their respective businesses. Each Subordinated Party enters into this Agreement based solely upon its independent knowledge of the Debtor's financial condition and business and each Subordinated Party assumes full responsibility for obtaining any further or future information with respect to the Debtor or its financial condition or business. Each Subordinated Party knowingly accepts the full range of risk encompassed in this Agreement.

6. Provisions Applicable after Bankruptcy. The provisions of this Agreement shall continue in full force and effect notwithstanding the occurrence of any event referred to in Section 1(d).

7. Further Assurances. Each Subordinated Party and the Debtor, at any time and from time to time, upon the written request of the Senior Parties will promptly and duly execute and deliver such further instruments and documents and take such further actions as the Senior Parties reasonably may request for the purposes of obtaining or preserving the full benefits of this Agreement and this Annex and of the rights and powers herein granted.